

**SUNSET RANCHOS PLANNING AREA  
DEVELOPMENT AGREEMENT**

**ORDINANCE No. 859**

ORDINANCE NO. 859

ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF ROCKLIN APPROVING A DEVELOPMENT AGREEMENT  
BY AND BETWEEN THE CITY OF ROCKLIN  
AND SUNSET RANCHOS INVESTORS, LLC, RELATIVE TO  
THE DEVELOPMENT KNOWN AS THE SUNSET RANCHOS  
PLANNING AREA OF THE NORTHWEST ROCKLIN  
ANNEXATION AREA  
( Grupe Development / DA-2001-01 )

The City Council of the City of Rocklin does resolve as follows:

Section 1. The City Council of the City of Rocklin finds and determines that:

- A. An environmental impact report has been certified for the project;
- B. The development agreement is consistent with and implements the policies of the City of Rocklin's General Plan, including the Housing Element;
- C. The development agreement is compatible with the land uses and development regulations prescribed by the planned development zoning (PDG-99-02) for the site;
- D. The development agreement will not be detrimental to the health, safety, and welfare of persons residing in the immediate area nor be detrimental or injurious to property or persons in the general neighborhood or to the general welfare of residents of the city as a whole;
- E. The development agreement will not adversely affect the orderly development of property or the preservation of property, on or off the project site;
- F. The agreement is consistent with the provisions of Government Code Sections 65864 through 65869.5.

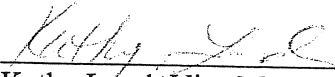
Section 2. The City Council of the City of Rocklin hereby approves the development agreement by and between the City of Rocklin and Sunset Ranchos Investors, LLC, Relative To The Development Known As The Sunset Ranchos Planning Area Of The Northwest Rocklin Annexation Area, attached hereto and incorporated by reference herein as Exhibit 1.

Section 3. The City Council of the City of Rocklin hereby directs the Mayor to sign the Development Agreement By and Between the City of Rocklin and Sunset Ranchos Investors, LLC, Relative To The Development Known As The Sunset Ranchos Planning Area Of The Northwest Rocklin Annexation Area on behalf of the City of Rocklin and directs City Clerk to record said document with the Placer County Recorder.

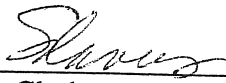
Section 4. Within fifteen days of passage of this ordinance, the City Clerk shall cause the full text of the ordinance, with the names of those City Council members voting for and against the ordinance, to be published in the Placer Herald. In lieu of publishing the full text of the ordinance, the City Clerk, if so directed by the City Attorney and within fifteen days, shall cause a summary of the ordinance, prepared by the City Attorney and with the names of the City Council members voting for and against the ordinance, to be published in the Placer Herald, and shall post in the office of the City Clerk a certified copy of the City Council members voting for and against the ordinance. The publication of a summary of the ordinance in lieu of the full text of the ordinance is authorized only where the requirements of Government Code section 36993 (c) (1) are met.

PASSED AND ADOPTED this 23rd day July, 2002, by the following roll call vote:

AYES:	Councilmembers:	Magnuson, Storey, Hill, Lund
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None
ABSTAIN:	Councilmembers:	Yorde

  
Kathy Lund, Vice Mayor

ATTEST:

  
City Clerk

The foregoing instrument is a  
correct copy of the original document  
on file in this office.

Attest:   
City Clerk, City of Rocklin

First Reading: 7-9-02  
Second Reading: 7-23-02  
Effective Date: 8-23-02

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Recording Requested by  
City of Rocklin

When recorded return to:  
City Clerk, City of Rocklin  
3970 Rocklin Road  
Rocklin, CA 95677

Title: Development Agreement  
Sunset Ranchos Investors, LLC  
Development Known as Sunset Ranchos Planning Area of  
the Northwest Rocklin Annexation Area  
Ordinance No. 859



**DEVELOPMENT AGREEMENT**  
BY AND BETWEEN THE CITY OF ROCKLIN  
AND SUNSET RANCHOS INVESTORS, LLC, RELATIVE TO  
THE DEVELOPMENT KNOWN AS THE SUNSET RANCHOS  
PLANNING AREA OF THE NORTHWEST ROCKLIN  
ANNEXATION AREA

This Development Agreement ("Agreement") is entered into this July 23<sup>rd</sup>, 2002, by and between Sunset Ranchos Investors, LLC, a Delaware Limited Liability Company ("Developer"), and the CITY OF ROCKLIN, a Municipal Corporation of the State of California ("City"), pursuant to the authority of Government Code Section 65865, et seq.

**RECITALS**

- A. To strengthen the public planning process, encourage private participation in comprehensive long-range planning, and reduce the economic risk of development, the Legislature of the State of California adopted Government Code §65864, et seq., which authorizes the City to enter into an agreement with any person or business entity having a legal or equitable interest in real property within the City, regarding the development of such property and establishing certain development rights therein.
- B. City has adopted policies, ordinances, procedures and requirements regarding its consideration of development agreements. This Agreement has been processed, considered and executed in accordance with those City policies, ordinances, procedures and requirements.
- C. Developer has a legal or equitable interest in those certain parcels of land consisting of approximately 1,092 acres situated in the City of Rocklin and in unincorporated Placer County, as more particularly described in Exhibit "A," attached hereto and by this reference incorporated herein ("Property"). The nature of this ownership or equitable interest is such that Developer has or will have control of the use of the Property as contemplated by this Agreement. The Property comprises a portion of the Sunset Ranchos Planning Area of the Northwest Rocklin Annexation Area, as described in the Project Approvals.
- D. Developer has previously received approval of the following entitlements on the Property from City: certification of the Northwest Rocklin Annexation EIR and adoption of the corresponding Mitigation Monitoring Program (EIR-00-02); Annexation (AX-98-07); General Plan Amendment (GPA-99-04); Prezone and General Development Plan (PZ-99-03 and PDG-99-02), and Design Guidelines (DR-02-06) (attached hereto as

Exhibit "B" ("Project Approvals"). The Project Approvals establish, among other things, single-family residential land uses; multi-family residential land uses; commercial uses; business professional uses; three elementary schools; one high school; public parks; and open space (the "Project"). Developer acknowledges that the Project Approvals do not grant the right to develop a specific number of residential units or specific square footage of non-residential projects. Development of the Project will require the review and approval of subsequent discretionary entitlements, including tentative maps and conditional use permits, which review will determine the number of residential lots which ultimately may be developed. The maximum densities established by the Project Approvals denote what the supporting infrastructure and available public utilities and services can accommodate.

- E. Development of the Project in accordance with the Project Approvals and this Agreement will provide for the orderly development of the Property consistent with the goals, policies and other provisions of the Rocklin General Plan.
- F. City has determined that the development of the Project as provided in the Project Approvals and this Agreement is beneficial to the City, because the Project will provide for the dedication and improvement of land for parks, a diversity and balance of housing types, and will otherwise achieve the goals and objectives contained in the Rocklin General Plan.
- G. City acknowledges that development of the Project is a large-scale undertaking, involving major investments by Developer, with development occurring in phases over several years. Developer is unwilling to incur the required investment in development and construction of the Project without assurance from the City of the continuity of the Project Approvals and the Developer's vested right to develop the Project as contemplated by, and in accordance with, the Project Approvals. City, in turn, cannot be assured of realizing the benefits of the Project without granting to Developer assurance of continuity of the Project Approvals and the Developer's vested right to develop.
- H. In adopting the ordinance approving this Agreement, the City Council of City specifically finds as follows:
  - 1. The Agreement and the Project Approvals are consistent with the objectives, policies, general land uses, and programs in the Rocklin General Plan;
  - 2. The Agreement and the Project Approvals are consistent with the City's sphere of influence;

3. The Agreement and the Project Approvals are compatible with the uses authorized within, and the regulations prescribed for, the land use districts in which the Project is located;
  4. The Agreement and the Project Approvals are in conformity with the public convenience, general welfare and good land use practices;
  5. The Agreement and the Project Approvals will not be detrimental to the health, safety and general welfare of persons residing in the general neighborhood of the Project or the City as a whole;
  6. The Agreement and the Project Approvals will not adversely affect the orderly development of Property or the preservation of property values;
  7. The Agreement is consistent with and is subject to the provisions of Government Code Sections 65864 through 65869.5.
- I. City and Developer recognize that the terms and conditions of this Agreement are to bind, and be legally enforceable by, each of them, and/or their respective successors in interest.

## **AGREEMENT**

### **DEFINITIONS**

Unless the context requires a different meaning or otherwise defined elsewhere in this Agreement, the terms and phrases used in this Agreement shall have the following meanings:

“City Manager” shall mean the City Manager of the City of Rocklin.

“County” shall mean the County of Placer.

“Council” shall mean the City Council of the City of Rocklin.

“Conditions of Approval” shall mean the conditions attached to the Project Approvals and shall be collectively included in any reference to the Project Approvals.

“Developer Improvements” shall mean those improvements required of Developer under this Agreement, the Project Approvals and any Subsequent Approvals.

“Effective Date” shall mean the date the City ordinance authorizing execution of this Agreement is effective, which date shall also be the date this Agreement takes effect, as provided in Section 2.A.1.

“EIR” shall mean that certain Final Environmental Impact Report for the Project dated March, 2002, and certified as adequate and complete by the City on May 28, 2002.

“General Development Plan” shall mean The Northwest Rocklin Area General Development Plan PDG-99-02 approved by Rocklin City Council Ordinance No. 858.

“General Plan” shall mean the General Plan of the City of Rocklin.

“Operative Date” shall mean the date this Agreement becomes operative as provided in Section 2.A.2.

“Parcel K” shall mean the Parcel K Plan Area as described in the General Development Plan.

“Project Approvals” shall mean as defined in Recitals paragraph D, above.

“Subsequent Approvals” shall mean all approvals by City, whether discretionary or ministerial, requested or agreed to by Developer, required under the Project Approvals, or this Agreement, or required by City laws, rules, regulations, or official policies, which are necessary or desirable for development of the Project and which occur on or after the Effective Date. Subsequent Approvals may include, but are not limited to, tentative and final subdivision maps, improvement agreements and other agreements relating to subdivision maps, conditional use permits, grading permits, improvement plan approvals, encroachment permits, building permits, zoning approvals, boundary adjustments, certificates of occupancy, certificates of compliance, modifications to the current zoning and modifications to the Project Approvals.

“Tentative Map” shall mean any tentative subdivision or parcel map or vesting tentative subdivision or parcel map applied for and/or approved for the Project.

“Transferee” shall mean any person or entity to whom all or any portion of the Project is transferred subject to the provisions of Section 10.

## **GENERAL PROVISIONS**

### **A. Effective Date**

1. This Agreement shall take effect upon the Effective Date as defined in Section 1.
2. Pursuant to Government Code §65865(b), this Agreement shall become operative upon completion of annexation proceedings annexing the Property to the City (the “Operative Date”); provided that if the annexation proceedings are not completed within eighteen (18) months of the Effective Date, then this Agreement

shall not become operative and shall be deemed terminated unless the parties agree to extend the Operative Date. Developer shall not object to or protest the annexation. Any request by Developer or the City to extend the operative date may be approved by the City's Council by resolution.

**B. Term**

1. The term of this Agreement shall be twelve (12) years. The term shall commence on the Effective Date and shall extend up to and including the twelfth (12<sup>th</sup>) anniversary of the Operative Date. Upon notice of either party to the other, no later than 180 days prior to the twelfth (12<sup>th</sup>) anniversary of the Operative Date, the parties shall meet to negotiate in good faith an extension of the term for up to an additional five years, if the Parties find the extension to be of benefit to Developer and the public.
2. If any litigation affecting the Project is filed challenging the annexation of the Property, Project Approvals, any Subsequent Approvals, or this Agreement, including, but not limited to, any environmental determinations related to any of the foregoing, or challenging the validity and binding nature of this Agreement, the term of this Agreement shall be extended for the period of time such litigation is pending, and upon the conclusion of such litigation by dismissal or entry of final judgment, Developer and City shall indicate the period of such extension by amendment to this Agreement and record a notice of such effect.

**DEVELOPMENT OF PROJECT SITE**

**A. Permitted Uses**

The permitted uses of the Property, the maximum density and intensity of use, the maximum height and size of proposed buildings, provisions for reservation or dedication of land for public purposes, and location of public improvements, and other terms and conditions of development applicable to the Property shall be those set forth in the Project Approvals and this Agreement.

**B. Vested Rights**

**1. Project Approvals**

Subject to the provisions and conditions of this Agreement, City agrees that City is granting, and grants herewith, a fully vested entitlement and right to develop the Property in accordance with

the terms and conditions of this Agreement and the Project Approvals. City acknowledges that the Project Approvals include the following land uses and approximate gross acreages for the Property:

Low and Medium Density Residential	791 acres;
High Density Residential	58 acres;
RC (Retail Commercial)	34 acres;
Business Professional	10 acres;
Park	56 acres;
R-C Recreation/Conservation	194 acres;
Schools	82 acres;

all as set forth in Exhibit "B." Such uses shall be developed in accordance with the Project Approvals as such Project Approvals provide on the Effective Date of this Agreement. Developer's vested right to proceed with the development of the Property shall be subject to Subsequent Approvals, provided that any conditions, terms, restrictions and requirements for such Subsequent Approvals shall not prevent development of the Property for the uses, or reduce the density and intensity of development set forth in the Project Approvals, so long as Developer is not in default under this Agreement.

2. **Moratoria, Quotas, Restrictions or Other Growth Limitations**

Developer and City intend that, except as otherwise provided in this Agreement, this Agreement shall vest the Project Approvals against any and all later-adopted resolutions, ordinances, and initiatives, whether adopted by the City Council or voter initiative, that directly or indirectly limit the rate, timing, or sequencing of development, or prevent or conflict with the permitted uses, density and intensity of uses as set forth in the Project Approvals. Developer shall be subject to any growth limitation ordinance, resolution, rule, regulation or policy which is adopted on a uniformly applied, City-wide or area-wide basis and which directly concerns a public health or safety issue, in which case City shall

treat Developer in a uniform, equitable and proportionate manner with all properties, public and private, which are impacted by that public health or safety issue. By way of example only an ordinance which precluded the issuance of a building permit because the district providing sewer service had inadequate sewage treatment capacity to meet the demand therefor (either City-wide or in a designated sub-area of the City) would directly concern a public health issue under the terms of this paragraph and would support a denial of a building permit within the Property, so long as City were also denying City-wide or area-wide all other requests for building permits which require sewage treatment capacity; however, an attempt to limit the issuance of building permits because of a general increase in traffic congestion levels in the City would not directly concern a public health or safety issue under the terms of this paragraph.

C. **Term of Subdivision Map**

The term of any tentative parcel map or tentative subdivision map relating to the Project, including any subsequently approved large-lot or small-lot tentative subdivision map or other parcel map or subdivision map approved by the City as part of the Subsequent Approvals, shall be the longer of the term therefor under the Subdivision Map Act or the remaining Term of this Agreement.

D. **Rules, Regulations and Official Policies**

1. **Inconsistency**

To the extent any future rules, ordinances, regulations or policies applicable to development of the Property are inconsistent with the permitted uses, density or intensity of use, rate or timing of construction, maximum building height and size, or provisions for reservation and dedication of land under the Project Approvals and as provided in this Agreement, the terms of the Project Approvals and this Agreement shall prevail, unless the parties mutually agree to alter this Agreement. To the extent any future rules, ordinances, regulations or policies applicable to development of the Property are not inconsistent with the permitted uses, density and intensity of use, rate or timing of construction, maximum building height and size, or provisions for reservation or dedication of land under the Project Approvals or under any other terms of this Agreement, such rules, ordinances, fees, regulations or policies shall be applicable. Taxes, fees, and assessments are addressed in and governed by section 3.E. of this Agreement.

2. **Application of Changes**

This section shall not preclude the application to development of the Property of changes in City laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in State or federal laws or regulations. To the extent that such changes in City laws, regulations, plans or policies prevent, delay or preclude compliance with one or more provisions of this Agreement, City and Developer shall take such action as may be required pursuant to Section 4.C. of this Agreement to comply therewith.

3. **Authority of City**

This section shall not be construed to limit the authority or obligation of City to hold necessary public hearings, or to limit discretion of City or any of its officers or officials with regard to rules, regulations, ordinances, laws and entitlements of use which require the exercise of discretion by City or any of its officers or officials, provided that subsequent discretionary actions shall not unreasonably prevent or delay development of the Property for the uses and to the density and intensity of development as provided by the Project Approvals and this Agreement, in effect as of the Effective Date of this Agreement.

E. **City Fees, Taxes and Assessment**

1. **Processing Fees and Charges**

Developer shall pay those processing, inspection, and plan checking fees and charges required by City under then current regulations for processing applications and requests for permits, approvals, and other actions; monitoring compliance with any permits issued, approvals granted, or the performance of any conditions with respect thereto; or any performance required of Developer hereunder.

2. **Taxes, Fees and Assessments**

Development of the Property and the Project under this Agreement shall be subject to all existing and future City fees, taxes and assessments; provided that Developer's obligation to pay future fees is limited to those fees adopted on a City-wide basis or that apply uniformly to all properties within the City of Rocklin that are zoned in the same classification as the Property as set forth in the Project Approvals.



## PROCESSING OF PERMITS AND APPROVALS

### A. Subsequent Approvals; Application of Development Agreement

City shall accept for processing, review, and action any and all applications submitted by Developer for Subsequent Approvals, necessary or convenient for the exercise of Developer's rights under the Project Approvals for the use and development of the Property. Upon approval, a Subsequent Approval shall be deemed a Project Approval under this Agreement.

### B. Application of Development Agreement to After – Acquired Real Property

As of the effective date of this Agreement, Developer intends to acquire legal or equitable interest in certain parcels of land included within the General Development Plan and so indicated in Exhibit A-1. Upon acquisition of legal or equitable interest in any such parcel by Developer, that parcel shall be deemed to be a portion of the Property subject to the Agreement.

### C. City Cooperation

The City agrees to cooperate with Developer in securing all permits which may be required by City. In the event state or federal laws or regulations are enacted after this Agreement has been executed, or the action of any governmental jurisdiction prevents, delays, or precludes compliance with one or more provisions of this Agreement, or requires changes in plans, maps, or permits approved by City, the parties agree that the provisions of this Agreement shall be modified, extended or suspended as may be necessary to comply with such State and federal laws or regulations or the regulations of other governmental jurisdictions. Each party agrees to extend to the other its prompt and reasonable cooperation in so modifying this Agreement or approved plans.

## IMPLEMENTATION

### A. Timing of Projection Construction

Except as provided in this Agreement or the Project Approvals, Developer shall not be required to develop any portion of the Project or to develop the Project in accordance with any time schedule except the Developer's schedule.

B. **Other Government Permits**

Developer shall be responsible for applying for and obtaining approvals required by other governmental agencies having jurisdiction over, or providing services to the Project. To the extent possible, City shall reasonably cooperate with Developer in obtaining all such approvals in as timely a manner as possible.

C. **Use of Eminent Domain**

City acknowledges that certain rights-of-way and other lands designated for public facilities, which are needed to accomplish development of the Project pursuant to the Project Approvals, are not under ownership of Developer. Where Developer is unable to secure said rights-of-way or lands after good faith effort, City agrees it shall use its best efforts to assist Developer in securing said rights-of-way and lands. With respect to the SR 65 interchanges and the core components of the vehicular circulation system shown in Figure 8 of Exhibit C of the General Development Plan, if City and Developer fail to secure said rights-of-way or lands, City agrees it shall use eminent domain proceedings to attempt to secure public rights-of-way and lands needed.

D. **Plans**

1. Financing Plan

Prior to City Council approval of any Subsequent Approval filed on the Property (except the High School), the Developer shall prepare and obtain City Council approval as an amendment to the General Development Plan, a plan for the financing of the construction and maintenance of all public infrastructure and facilities to serve the Project (the "Financing Plan"). The Financing Plan shall provide a reliable funding mechanism for each improvement addressed to assure that the improvement is constructed and in service as required by the Phasing Plan (§D.2., below). The Financing Plan shall address and shall conform to the General Development Plan, all conditions of approval, and all adopted mitigation measures, including, but not limited to, the following:

- a) Mello-Roos Community Facilities District: the creation and implementation of one or more financing districts under the authority of the Mello-Roos Community Facilities District law or comparable statutory scheme (Govt. Code section 53311, et seq.) (the "CFD"). The boundaries of the CFD shall include all or a portion of the territory within the

boundaries of the General Development Plan, excluding Parcel K. The CFD shall be authorized to issue bonds and levy and collect special taxes for the construction, acquisition, and maintenance of the broadest range of public facilities as authorized under the law. The total of the maximum authorized special tax for all CFD activities plus all other annual taxes, special taxes, assessments, and other parity liens, per parcel, shall be established in the Financing Plan. The Financing Plan shall demonstrate that the CFD will comply with City's Policies and Procedures for Land Secured Financing as adopted by City Council Resolution No. 99-192 or as may be amended. At the time of formation of the CFD, Developer and City shall enter into a shortfall agreement, in form and substance acceptable to City, whereby Developer shall covenant to pay for the CFD improvements to the extent that the CFD special taxes and/or bonds do not provide sufficient funding for the completion of the improvements. At the time of entering into this Agreement, the Parties intend District to contribute to the financing of, among other things, the core components of the vehicular circulation system, as described in the Project Approvals; the Sunset Boulevard/SR 65 and Parkway A/SR 65 interchanges and the north/south road connecting Parkway A to Sunset Boulevard through the Herman Miller site, referred to as Street B in the General Development Plan; major water and sewer improvements; major drainage facilities; parkway lighting and landscaping; neighborhood park maintenance; community park construction and maintenance; and fire service. In addition, CFD revenues may be made available to reimburse Developer for expenditures made by it to construct or fund public improvements and facilities to serve the Project to the extent funds are available, which determination shall be in the sole discretion of the City.

- b) Northwest Rocklin Area Community Park Fee:
  - (i) A cost analysis for the full improvement of the proposed community park in accordance with the Community Park Master Plan (see 5.D.3).
  - (ii) A fee analysis to fully cover the cost of full development of the proposed community park (the "NWRA Community Park Fee"). The fee analysis shall include an analysis of the territory to be subject to the fee, the relationship between the

incidence of the fee and the benefit of the improvements to be built in satisfaction of Government Code 66000, et seq., and a plan for adoption and implementation of the fee, such as imposing the fee as a part of, or as a surcharge to, the City's Community Park Fee under RMC Chapter 3, Article VI. The NWRA Community Park Fee shall not apply to Parcel K.

c) Interchanges and Street B

A plan for financing the Sunset Boulevard SR 65 and the Parkway A/SR 65 interchanges, and the north/south road connecting Parkway A to Sunset Boulevard through the Herman Miller site, referred to as Street B in the General Development Plan. As of the date of this Agreement, the Parties anticipate the interchanges will be financed through a combination of Highway 65 JPA fees, the CFD bond proceeds and special taxes, and Developer contributions.

d) Fire and Emergency Service

The calculation, levy, and collection of a CFD special tax to pay the annual cost of operation and maintenance of fire protection and suppression services and emergency medical aid services within the Project, either through the existing Rocklin Community Facilities District No. 1, the new CFD, or the combination of both. The maximum annual special tax for fire service shall not exceed \$210 for single family detached residential structures, \$210 per unit for condominiums, \$315 for multifamily structures with up to four units, \$660 for multifamily structures with five units or more, \$825 for commercial (including business/professional) structures, and \$990 for light industrial structures. These amounts shall be subject to a four percent (4%) annual inflation adjustment. The annual special tax shall be levied on each lot or parcel as determined in the Financing Plan to insure sufficient operating revenues are generated as needed to provide fire and emergency service to the Project. Developer acknowledges that the annual special tax may be levied on undeveloped land.

e) Reimbursement of Planning Costs:

A plan for reimbursement of Developer for a portion of their reasonable planning costs incurred in connection with the original Project approvals proportionate to the benefit received by other landowners within the North West Rocklin Area, excluding Parcel K, of those planning costs, such as the EIR and General Development Plan preparation costs. These excess planning costs shall not include Developer's proportionate share, or any costs associated with project delays or changes initiated by Developer which were of no or minimal value to other landowners. The plan shall include a method of levying and collecting an EDU-based fee from the other benefited landowners at the time the benefited landowner obtains development approvals, as well as a method of paying the fees to Developer. The determination of what constitutes "reasonable" costs shall be in the exclusive determination of City.

f) Reimbursement of Certain Roadway Construction Costs:

A plan for reimbursing Developer a portion of the cost borne directly by Developer of fully improving certain arterial roadways which are eligible for funding out of the City's Traffic Impact Fee (RMC Chapter 3.16 Article IV), and other public improvements which are oversized to benefit property owned by third persons. With respect to arterial roadways, reimbursement shall be limited to the cost of reasonable asphalt paving only (as determined by the City Engineer) those lanes of traffic not needed for the development of the Project Area (that is, which are primarily of City wide benefit). Reimbursement may be through annual cash payments or Traffic Impact Fee credits to be specified in the Financing Plan.

2. Phasing Plan

Prior to City Council approval of any Subsequent Approval filed on the Property (except the High School), the Developer shall prepare and obtain City Council approval as an amendment to the General Development Plan, an Improvement Phasing Plan detailing the timing of the start and completion of all major infrastructure and public facilities improvements, as well as who shall be obligated to construct the improvements to ensure that all improvements needed to service the Project are completed in a

timely manner so as not to violate the City's level of service standards set forth in the General Plan or as otherwise practiced by the City. The Phasing Plan shall address and shall conform to the General Development Plan, all conditions of approval, and all adopted mitigation measures including, but not limited to, the following:

- a) Community Park: The Plan shall require Developer to make to City an irrevocable offer of dedication of the Community Park site with the first parcel or subdivision map for the Project, shall enter into an agreement to construct Phase I of the Community Park prior to issuance of the building permit for the 1000<sup>th</sup> dwelling unit, and shall complete the construction within twelve months of final map approval.
- b) Interchanges and Vehicular Circulation System The plan shall identify the core components of the vehicular circulation system as described in the Project Approvals, the Sunset Boulevard/SR 65 and Parkway A/SR 65 interchanges, and the north/south road connecting Parkway A to Sunset Boulevard through the Herman Miller site, referred to as Street B in the General Development Plan, and shall specify the level of development that can occur, consistent with the General Plan, the General Development Plan, and the EIR, before each component is constructed. The plan shall ensure that development of the Project area is phased in a manner, and at a pace, that will not cause violations of the City's level of service standards as set forth in the General Plan.
- c) Other Infrastructure and Public Facilities Improvements: The plan shall identify all other major infrastructure and public facilities improvements needed to serve the Project and shall establish a construction phasing plan tied to Project development to insure that each is completed in a timely manner. These other major improvements include, but are not limited to, major water and sewer improvements, major drainage facilities, utility service improvements, parking lighting and landscaping, fire station construction, open space and trail system, and neighborhood parks.

3. Park Master Plans

Prior to City Council approval of any Subsequent Approval filed on the Property (except the High School), the Developer shall prepare and obtain City Council approval as an amendment to the General Development Plan, Park Master Plans detailing the facilities and improvements to be constructed in each of the Neighborhood Parks, in the Community Park, and Open Space and Trail System.

E. **The CFD**

City agrees to form and implement the CFD to finance the infrastructure and public facility improvements to be constructed by Developer as detailed in the Financing Plan. The CFD shall be formed consistent with and adhere to the City's standards governing the use and formation of such districts, including Developer's payment of application fees. City and Developer shall cooperate in good faith with each other in the formation of the CFD and the ultimate issuance of bonds thereunder to fund the improvements consistent with the applicable substantive and procedural requirements. The District shall be in place by the dates specified in the Financing Plan.

F. **Neighborhood Parks and Open Space and Trail System**

1. Developer shall improve and dedicate to City, at Developer's cost, each of the neighborhood parks identified on the General Development Plan in accordance with the General Development Plan, the Phasing Plan, and the approved Park Master Plan for each site. Developer shall irrevocably offer to City each neighborhood park site and execute the City's standard form Subdivision Improvement Agreement Turn-Key Park for each park as a condition of approval of a Subsequent Approval. In consideration of Developer's obligation to improve and dedicate to City each neighborhood park, development of the Property subject to this Development Agreement shall not be subject to payment of the City's park fee under Rocklin Municipal Code §§16.28.060 – 16.28.160.
2. Developer shall grant to City an Open Space and Conservation Easement over those areas shown in the NWRA General Development Plan as Development Areas 28, 34, and 45 (the Open Space and Trail System). The grant shall be in substantial conformance with the Grant of Open Space and Conservation Easement with Covenants attached hereto as Exhibit C and by this reference incorporated herein, which provides for public access

and use of the trail system. Fee ownership of the Open Space and Trail System will be retained by Developer or conveyed to the Master Homeowners Association ("HOA") which will be formed as a part of the Project. Developer shall construct the trail system in conformance with the Park Master Plan for the trail system. The trail system shall be maintained by the fee owner in conformance with standards contained in the CC&R's governing the Project and the HOA. The trail system shall be constructed of an all-weather surface suitable for bicycling and hiking and shall be designed to provide access throughout the Open Space Area for public use. The preliminary location and design of the trail system shall be submitted for approval in phases as part of tentative small lot subdivision map applications; final location and design plans shall be submitted with final map applications. Improvement of the trail system shall be a condition of approval of the tentative maps. Grant of the Open Space and Conservation Easement for the Open Space and Trail System shall be in addition to any and all other land dedications required in the Project Approvals, this Agreement, or by any other law, rule, or regulation of the City.

In lieu of Developer or HOA fee ownership of the Open Space and Trail System restricted with an Open Space and Conservation Easement, City may, in its sole discretion, require dedication of the Open Space and improved Trail System to the public and provide for its operation and maintenance through an appropriate financing district or comparable financing tool.

G. **Community Park**

Developer shall irrevocably offer to City the land comprising the entire Community Park as specified in the Phasing Plan and General Development Plan. Developer shall improve Phase I of the Community Park in accordance with the General Development Plan, the Phasing Plan, and the Community Park Master Plan. Developer shall execute the City's standard form Subdivision Improvement Agreement Turn-Key Park for construction of Phase I, except that upon completion of the Phase I improvements to the satisfaction of the City, City shall accept the irrevocable offer of dedication and purchase the Phase I improvements (excluding value of land) with available revenues in the NWRA Community Park Fund and the CFD, in accordance with the Financing Plan. City agrees to levy the maximum tax for park construction and maintenance in the CFD, beginning with the recording of the first subdivision map, and make available for acquisition of Phase I proceeds not then needed for park maintenance as determined by the City. If insufficient funds are available in the NWRA Community Park and Recreation Fee Fund and the CFD at the time of purchase, City and



Developer shall enter into an agreement at that time for the reimbursement of the balance owing to Developer from NWRA Community Park and Recreation Fees as funds become available. City shall not be obligated to pay Developer from any source of funds other than the NWRA Community Park and Recreation Fee and the CFD.

H. **City Recreational Facilities Contribution**

Developer shall pay to City a City-wide recreational facility contribution in the amount of two million dollars (\$2,000,000). Payment shall be as follows: \$600 per single family lot shall be paid prior to approval of each final small lot single-family subdivision map, and \$200 shall be paid for each multi-family dwelling unit upon the issuance of a building permit for the multifamily project; provided, that if by July 1, 2007, the total recreation facilities contribution then paid to City under this section is less than two million dollars (\$2,000,000), Developer shall pay the balance to City upon request of the City Manager. Developer agrees that City shall condition all Subsequent Approvals on the obligation to pay the contribution required by this paragraph and the obligation shall survive this Agreement. City shall deposit the contribution in a separate fund for the construction and/or acquisition of recreational facility(ies) of City's choice.

I. **Affordable Housing**

At least 10% of the dwelling units constructed in the Project shall be Affordable Units. "Affordable Units" means a combination of very low income (50% of the Placer County median income), low income (80% of the Placer County median income) and moderate income (81% to 120% of the Placer County median income) households. To satisfy this requirement, each residential small lot tentative subdivision map and each multifamily Subsequent Approval shall be conditioned to provide 10 percent of the proposed units as Affordable Units or demonstrate where the Affordable Units will or have been provided elsewhere in the Sunset Ranchos Planning Area to meet the respective allocation.

To ensure that Affordable Units in each income category are provided, and to avoid an over – concentration of Units in any one Development Area, the following requirements shall apply:

1. At least 80% of the Project's total required Affordable Units shall be affordable to very low income and/or low income households.
2. a) At least 25% of the Project's total required Affordable Units shall be constructed within Development Areas designated for single family residential development.

- b) Not more than 40% of the units within any one single family residential Development Area shall be for low and/or very low income households.
3. The remaining (up to 75%) of the Project's total required Affordable Units shall be dispersed within the Development Areas designated for multifamily development. Unless developed as seniors only projects, Development Areas 8, 9 and 10 shall not have more than 50% low and/or very low income units. Development Areas 4, 5 and 15 may have up to 100% moderate, low and/or very low income units.
  4. At City's option, any Affordable Units proposed by Developer for low income or moderate income households shall be made available and affordable to very low income households if City makes available to Developer or the purchaser a housing subsidy.
  5. Developer shall satisfy this Affordable Housing obligation by construction of both "for sale" units and rental units. Developer shall be entitled to apply for and participate in any and all of the City's affordable housing programs, including the density increase incentive program (RMC Chapter 17.96) to meet its obligations.
  6. Notwithstanding the foregoing, Developer shall not be required to construct any Affordable Units prior to the issuance of the 500<sup>th</sup> residential building permit within the Project. Prior to the issuance of any further residential building permits for market rate units, Developer shall provide evidence to the City that not less than 50 Affordable Units have been constructed or are under construction consistent with the above requirements.

The above obligations shall satisfy Developer's obligations to provide affordable housing for the residential portion of the Project. City agrees that no additional affordable housing obligation will be imposed on Developer in connection with residential development in the Project.

J. **High School**

Developer shall complete improved access to the high school site suitable for construction vehicle use no later than May 31, 2003. Full public access shall be completed by May 1, 2005.

K. **Fire Station No. 4**

Developer shall make to City a lump sum contribution for the construction and acquisition of apparatus for Rocklin Fire Station No. 4 located on Park Drive in City in the amount of \$800,000. Developer shall make the contribution to City no later than January 1, 2004.

L. **Update of City Traffic Impact Fee**

City agrees that it shall update its Traffic Impact Fee charged to all development in the City to include the following improvements which City recognizes as necessary for the orderly development of the City: Sunset Boulevard/Blue Oaks Boulevard Intersection, Pacific Street/Sunset Boulevard Intersection, Sunset Boulevard/Atherton Road Intersection, Sunset Boulevard/Atherton Drive Intersection, Sunset Boulevard/West Oaks Boulevard Intersection. City shall use its best efforts in good faith to complete the update by December 1, 2002.

M. **Fire Protection/California Department of Forestry**

Concurrent with the Operative Date, Developer shall enter into an agreement with City to pay City all charges imposed on City by the California Department of Forestry for providing fire protection and suppression services to all of the territory annexed to the City by adoption of Resolution No. 2002-231.

## **AMENDMENT OF AGREEMENT**

This Agreement may be amended from time to time by mutual consent of City and Developer (and/or any successor owner of any portion of the Property, to the extent subject to or affected by the proposed amendment), in accordance with the provisions of the Development Agreement Statute. If the proposed amendment affects less than the entire property, then such amendment need only be approved by the owner(s) in fee of the portion(s) of the Property that is subject to or affected by such amendment. If and when the parties find that clarifications, minor changes or minor adjustments are necessary or appropriate to the implementation of this Agreement or development of the Project, the clarification, minor change or minor adjustment shall be stated in a written operating memorandum agreed to and approved by Developer and City Manager acting on behalf of City. As used in this section, "minor" shall not include an increase in the number of dwelling units otherwise allowed by the Project and applicable rules, regulations, ordinances, and policies, or a reduction in the amount of open space by more than one percent (1%). An operating memorandum under this section, which is consistent with this Agreement, shall not constitute nor require an amendment to this Agreement or prior public notice or hearing to be effective.

## **COOPERATION IN THE EVENT OF LEGAL ACTION**

### **A. Third Party Challenge**

If any legal action or proceeding is instituted challenging the validity of any provision of this Agreement, the Project, or Project Approvals, the parties shall cooperate in defending against such challenge. Developer, at Developer's expense, shall defend such action as the real party in interest and assist City in its defense. To the extent that any such action challenges Developer's right to proceed with the Project under this Agreement, Developer shall have the control of the defense of the action or proceeding and may utilize legal counsel of its choice, subject to the approval of City, which approval shall not be unreasonably withheld, conditioned, or delayed. Developer shall reimburse City for reasonable expenses of City's attorneys resulting from representation of City in any such legal action or proceeding. In addition, Developer shall indemnify City for any liability incurred by City as a result of any such action or proceeding, including any award to opposing counsel of attorneys' fees or costs.

### **B. Cure, Reapproval**

If any litigation which results in a judgment wherein the courts order the City to reconsider any matter pertaining to this Agreement or Project Approvals, the City and Developer agree that any reconsideration shall be expeditiously performed to remedy any defects noted in such judgment. If such remedy includes the need to readopt any or all of the Project Approvals, City agrees to expeditiously readopt any or all of the Project Approvals in a manner consistent with the requirements of the judgment, and to the extent readoption is in harmony with the spirit and intent of this Agreement, the original Project Approvals, and the public welfare.

## **DEFAULT; ANNUAL REVIEW; REMEDIES; TERMINATION**

### **A. Defaults**

1. Failure by City or Developer to perform any other material term or provision of this Agreement shall constitute a default under this Agreement.
2. The Party alleging the default shall give the other not less than thirty (30) days' written notice of the default. Any notice of default shall specify the nature of the alleged default and, where appropriate, the manner in which said default may be satisfactorily cured. If notice of default is given, the Parties shall make

reasonable efforts to agree to an action plan to cure the default within the thirty (30) days or longer time as agreed.

3. If any default is not cured within the time allowed, the party alleging the default may institute legal action against the party in default or give notice of intent to terminate the agreement pursuant to California Government Code §65868 and regulations of City implementing said Government Code section. Following any default by Developer and notice by City of intent to terminate this Agreement, the matter shall be scheduled for consideration and review by the Council within thirty (30) calendar days in the manner set forth in Government Code §§65865, 65867 and 65868 and City regulations implementing such sections. Developer shall have the right to offer written and oral evidence at such public hearing. Following consideration of evidence presented at such public hearing, either party alleging the default by the other party may give written notice of termination of this Agreement to the other party.
4. Failure or delay in giving notice of default shall not constitute a waiver of any default. Any failure or delay by either party in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default of its rights or remedies, and shall not deprive either party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.
5. No party shall be in default of this Agreement for delays in performance due to war, acts of terrorism, litigation, insurrection, strikes, flood, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities other than City, enactment of conflicting state or federal laws or regulations, or similar basis beyond the reasonable control of the party to be excused. Any action or proceeding addressing the validity of this Agreement, any Project Approval, or any permit approval, agreement or other entitlement related to the Project, or any action of a governmental agency necessary or desirable to the development of the Project shall create an excusable delay as to Developer or to City.

#### **B. Remedies**

In addition to any other rights or remedies, either party may institute an equitable action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, enforce by specific performance the obligations and

rights of the parties hereto, or to obtain any other remedies consistent with the foregoing and the purposes of this Agreement. Prior to the initiation of any litigation hereunder, the parties agree to pursue mediation to resolve any disputes.

C. **Annual Review**

1. On or about the first anniversary of the Effective Date, and on or about each anniversary of this Agreement thereafter, City shall conduct a review of the good-faith compliance by Developer with the terms of this Agreement (the "Annual Review"). Said review shall be limited in scope to compliance with the terms of this Agreement pursuant to Section 65865.1 of the Government Code and the Rocklin Municipal Code, Chapter 17.92. The findings of the Annual Review and compliance or non-compliance with this Agreement shall be made available to Developer at the conclusion of the annual Review.
2. City shall notify the Developer that the review will take place. Upon not less than thirty (30) days' written notice by the Planning Director of the City, Developer shall provide such information as may be reasonably requested and deemed to be required by the Planning Director in order to ascertain compliance with this Agreement.
3. City shall pay the appropriate fee for the annual review as established by resolution of the City Council.
4. At the conclusion of the Annual Review, City shall make written findings and determinations on the basis of substantial evidence in the record, regarding whether Developer has complied in good faith with the terms of this Agreement. If City finds and determines that Developer has not complied with such terms, and that such non-compliance amounts to a default if not cured, then City shall deliver to Developer a notice of default and opportunity to cure, in which case the parties shall proceed as provided in Section 8.A. If notice of default is not sent within thirty (30) days after conclusion of the Annual Review, Developer shall be deemed to be in compliance with this Agreement.
5. City shall deliver to Developer, pursuant to Section 9 herein, a copy of all staff reports and documents to be used or relied upon in conducting the Annual Review at least ten (10) days before City's Annual Review. Developer shall be permitted to respond to City's evaluation orally at a public hearing before the City Council, by a written statement, or both.
6. If City fails to conduct the Annual Review and Developer is not in default with respect to its performance under this Agreement during the past year as evidenced by the absence of any notice of default being delivered by City to Developer, such failure shall be

deemed an approval by the City and Developer's compliance with the terms of this Agreement for that Annual Review period.

D. **Termination**

This Agreement shall terminate under the following circumstances:

This Agreement shall automatically terminate upon the twelfth (12<sup>th</sup>) anniversary of the Effective Date, unless extended as provided in section 2.

1. Automatic Termination Upon Completion and Sale of Residential Unit. This Agreement shall automatically be terminated, without any further action by either party or need to record any additional document, with respect to any single-family residential lot within a parcel designated by the General Development Plan for residential use upon completion of construction and issuance by the City of a final inspection for a dwelling unit upon such residential lot and conveyance of such improved residential lot by Developer to a bona fide, good-faith purchaser thereof. In connection with its issuance of a final inspection for such improved lot, City shall confirm that all improvements which are required to serve the lot, as determined by City, have been accepted by City. This termination of this Agreement for any such residential lot as provided for in this Section 8.D.2. shall not in any way be construed to terminate or modify any assessment district or Mello-Roos Community Facilities District lien affecting such lot at the time of termination.
2. Termination Upon Developer Request. This Agreement may also be terminated, at the election of the then property owner, with respect to any legally subdivided parcel designated by the General Plan for residential or non-residential use (other than parcels designated for public use), when recording a final residential lot subdivision map for such parcel, or receiving a certificate of occupancy or final inspection, whichever is applicable, for a multi-family or non-residential building within such parcel, by giving written notice to City of its election to terminate the Agreement for such parcel, provided that all improvements which are required to serve the parcel, as determined by City, have been accepted by City. City shall cause any written notice of termination approved pursuant to this subsection to be recorded against the applicable parcel with the County Recorder.



E. **Effect of Termination**

1. If this Agreement is terminated following any event of default of Developer or for any other reason, such termination shall not affect the validity of any building or improvement within the Property which is completed as of the date of termination, provided that such building or improvement has been constructed pursuant to a building permit issued by the City. Furthermore, no termination of this Agreement shall prevent Developer from completing and occupying any building or other improvement authorized pursuant to a valid building permit previously issued by the City that is under construction at the time of termination, provided that any such building or improvement is completed in accordance with said building permit in effect at the time of such termination.
2. Termination of this Agreement shall not affect any of Developer's obligations to comply with City's General Plan, the Project Approvals, any Subsequent Approvals, and all other zoning and subdivision regulations applicable to the Project and the Property in connection with construction and development pursuant to paragraph 8.E.1.
3. Termination of this Agreement shall not affect any of Developer's obligations which have been expressly made conditions of Subsequent Approvals, unless said obligations are conditioned on the existence of this Agreement.

**NOTICES**

- A. Any notice, demand or other communication ("Notice") given under this Agreement shall be in writing and given personally or by registered or certified mail (return receipt requested). If given by registered or certified mail, a notice shall be deemed to have been given and received on actual receipt by the addressee. If personally delivered, a notice shall be deemed to have been given when delivered to the party to whom it is addressed. A courtesy copy of the notice may be sent by facsimile transmission. Any party may designate any other address in substitution of the address contained hereby by like written notice.

B. Notices shall be given to the parties at their addresses set forth below:

If to City, to:

City Manager  
City of Rocklin  
3970 Rocklin Road  
Rocklin, California 95677  
Telephone: (916) 632-4050  
Facsimile: (916) 624-8010

with a copy to:

Director of Community Development  
City of Rocklin  
3970 Rocklin Road  
Rocklin, California 95677  
Telephone: (916) 632-4020  
Facsimile: (916) 624-4759

If to Developer, to:

Sunset Ranchos Investors  
P.O. Box 7576  
Stockton, CA 95219  
Attention: Nelson Bahler

Telephone: (209) 473-6000  
Facsimile: (209) 473-6187

with a copy to

Hefner, Stark & Marois, LLP  
2150 River Plaza Drive, Suite 450  
Sacramento, California 95833-3883  
Attention: Timothy D. Taroni, Esq.  
Telephone: (916) 925-6620  
Facsimile: (916) 925-1127

## ASSIGNMENT

### A. Right to Assign

Developer may assign its rights to develop the Project, or any portion or phase thereof, to any successor in interest which acquires any legal or equitable interest in any portion of the Project, which rights shall run with the property on which the Project is constructed. Each successor in interest to Developer shall be bound by all of the terms and provisions hereof applicable to that portion of the Project acquired by it. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties' successors, assigns and legal representatives. Developer shall provide City with written notice of any assignments within ten (10) days after the occurrence thereof.

### B. Release Upon Transfer

Upon the sale, transfer or assignment in whole or in part of Developer's rights and interests under this Agreement, Developer shall be released from its obligations under this Agreement with respect to the portion of the Project so transferred; provided, however, that (i) Developer is not then in default under this Agreement; (ii) Developer has provided written notice of such transfer to the City; and (iii) subject to the exceptions stated herein below, the transferee executes and delivers to the City a written Assumption Agreement in which (a) the name and address of the

transferee is set forth, and (b) the transferee expressly and unconditionally assumes all of the obligations of Developer under this Agreement with respect to the portion of the Project transferred. Developer shall in any event, given written notice to the City of such transferee's address no later than ten (10) days after any such transfer.

## **COVENANTS RUN WITH THE LAND**

During the term of this Agreement, all of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns, devisees, administrators, representatives, lessees and all other persons or entities acquiring the Property, any lot, parcel or any portion thereof, or any interest therein, whether by sale, operation of law or in any manner whatsoever, and shall inure to the benefit of the parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns. All of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable law, including, without limitation, Section 1648 of the California Civil Code. Each covenant to do or refrain from doing some act on the Property (i) is for the benefit of the Property and shall be a burden upon the Property; (ii) runs with the Property; (iii) is binding upon each party and each permitted successor owner during its ownership of the Property or any portion thereof, and each person or entity having any interest therein derived in any manner through any owner of the Property, or any portion thereof, and shall benefit each party and the Property hereunder, and each other person or entity succeeding to an interest in the Property.

## **NOTICE OF COMPLIANCE**

- A. Within thirty (30) days following any written request that Developer may make from time to time, City shall execute and deliver to Developer in recordable form a written "Notice of Compliance," duly executed and acknowledged by City. The notice shall describe this Agreement and the Project and state:
1. That this Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect as modified and state the date and nature of such modification;
  2. That there are no uncured defaults under this Agreement, or if defaults exist, specify the dates and nature of such default;
  3. The findings of City with respect to the most recent Annual Review; and

4. Such other reasonable information requested by Developer.
- B. The failure of City to deliver such a Notice of Compliance within such thirty (30) day period shall constitute a conclusive presumption that may be relied upon by third parties and transferees that, except as may be otherwise stated by Developer, this Agreement is in full force and effect without modification and that there are no uncured defaults in the performance of Developer.

## MISCELLANEOUS

### A. No Agency, Joint Venture or Partnership

It is specifically understood that the Project is a private development, and the Developer shall have full power over and exclusive control of the Project, subject to the terms and conditions of this Agreement. Although City and Developer intend to cooperate and work together to carry out the Project, the parties renounce the existence of any form of agency relationship, joint venture, partnership or other association between City and developer, and nothing contained herein or in any document executed in connection herewith shall be construed as creating any such legal relationship.

### B. Severability

If any provision of this Agreement or the application of any provision of this Agreement to a particular situation is held by a court of competent jurisdiction to be invalid, void, or unenforceable, such provision shall be disregarded and this Agreement shall continue in effect unless enforcement of this Agreement without the invalidated provision would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Agreement. If any provision of this Agreement is determined to be invalid or unenforceable and the effect thereof is to deprive a party hereof of an essential benefit of its bargain hereunder, then such party so deprived shall have the option to terminate this entire Agreement from and after such determination.

### C. Other Necessary Acts

Each party shall execute and deliver to the other all further instruments and documents as may be reasonably necessary to carry out this Agreement, the Project and Subsequent Approvals, and the Applicable Law in order to provide and secure to each party the full and complete enjoyment of its rights and privileges hereunder.

D. **Construction**

This Agreement has been reviewed and revised by legal counsel for both City and Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

E. **California Law/Attorneys' Fees**

This Agreement shall be construed and enforced in accordance with the laws of the State of California. If legal action by either party is brought against the other party because of an alleged default under the terms and conditions of this Agreement or to enforce a provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and court costs.

F. **Waivers**

No provision or condition of the Agreement shall be considered waived unless such waiver is in writing and signed by the party to be bound.

G. **Duty to Act Reasonably and in Good Faith**

Unless otherwise expressly provided, each party shall act reasonably in giving consent, approval, or taking any other action under this Agreement. City and Developer agree that each of them shall at all times act in good faith in order to carry out the terms of this Agreement, and each of them covenants that it will not at any time voluntarily engage in any actions which frustrate the purpose and intent of the parties which is to develop the Property in conformity with the terms and conditions specified in this Agreement.

H. **Recordation**

Except when this Agreement is automatically terminated due to the expiration of the Term or the provisions of Section 8.D. above, the City shall cause this Agreement, an amendment hereto and any other termination thereof to be recorded with the County Recorder within ten (10) days of the Effective Date or the date of such amendment or termination becoming effective. Any amendment or termination of the Agreement to be recorded that affects less than all the Property shall describe the portion thereof that is the subject of such amendment or termination.

I. **Time of Essence**

Time is of the essence in the performance of each and every covenant and obligation to be performed by the parties hereunder.

J. **Severability**

If any provision, clause, sentence or paragraph of this Agreement, or application thereof to any person or circumstances be held invalid, such invalidity shall not affect other provisions or application of the Agreement which can be given effect without the invalid provisions or applications and, therefore, the provisions of this Agreement declared to be severable.

K. **Entire Agreement**

This Agreement, together with all exhibits hereto, constitutes the entire agreement between the parties with respect to the subject matter of this Agreement. This Agreement is specifically intended by the parties to supersede all prior agreements, whether written or oral, for the Property which may exist between the City and Developer.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto on the day and year first above written.

**CITY:**

CITY OF ROCKLIN,  
A Municipal Corporation

By: Kathy Lund  
Kathy Lund  
Vice Mayor

**DEVELOPER:**

Sunset Ranchos Investors, LLC  
A Delaware Limited Liability Company

By: Grupe Sunset Ranchos, L.P.,  
A California Limited Partnership,  
Its Managing Member

By: Marchbrook Building Company  
A California Corporation,  
Its General Partner

Daniel Nethercott  
Daniel Nethercott  
Its Vice President

**ATTEST:**

Dave  
City Clerk

**APPROVED AS TO FORM:**

Sabina D. Gilbert  
Sabina D. Gilbert  
City Attorney

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

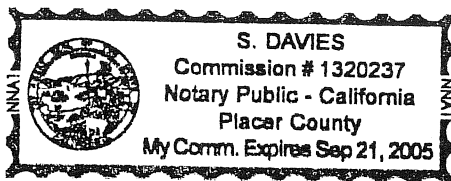
County of Placer } ss.

On 11 Sept. 2002, before me, S. DAVIES, NOTARY PUBLIC,  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared KATHY LUND,  
Name(s) of Signer(s)

☒ personally known to me  
☐ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal Above

WITNESS my hand and official seal.

S. Davies  
Signature of Notary Public

## OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

### Description of Attached Document

Title or Type of Document: Development Agreement - Grape-Mauchbrock

Document Date: 7-23-02 Number of Pages: —

Signer(s) Other Than Named Above: — NETHERCOTT —

### Capacity(ies) Claimed by Signer

Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER

Top of thumb here



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of

CALIFORNIA

SS.

On August 23, 2002

Date

before me,

JULIE DZUBAK, Notary Public

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

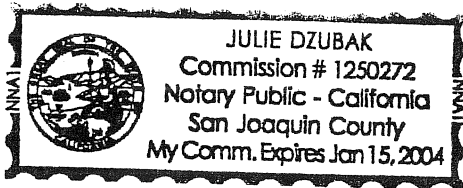
personally appeared

DANIEL NETHERCOTT

Name(s) of Signer(s)

☒ personally known to me

☐ ~~proved to me on the basis of satisfactory evidence~~



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Julie Dzubak  
Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document:

DEVELOPMENT AGREEMENT

Document Date:

July 23, 2002

Number of Pages:

Signer(s) Other Than Named Above:

**Capacity(ies) Claimed by Signer**

Signer's Name:

DANIEL NETHERCOTT

☐ Individual

☒ Corporate Officer — Title(s):

SENIOR VICE PRESIDENT

☐ Partner — ☐ Limited ☐ General

☐ Attorney-in-Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other:

Signer Is Representing:

**RIGHT THUMBPRINT  
OF SIGNER**

Top of thumb here

Exhibit "A"

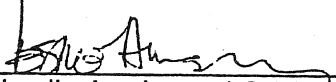
Description of Property

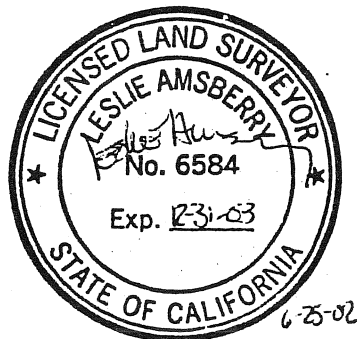
Page 1

Lots 1 through 119, inclusive as shown on that map Entitled "Sunset Rancho Estates, Unit No. 1", filed June 11<sup>th</sup>, 1970, in Book "J" of Maps, at Page 1, Placer County Records, situated in Sections 1, 2, and 3, Township 11 North, Range 6 East, M.D.M., County of Placer, California.

EXCEPTING THEREFROM, Lots 4, 24, 53, 54, 55, 56, 63, 69, 70, 77, 86, 87, 112, and 117.

Prepared By:  
Terrance E. Lowell and Associates, Inc.

  
\_\_\_\_\_  
Leslie Amsberry, LS 6584      6-25-02      Date  
Exp. 12-31-03



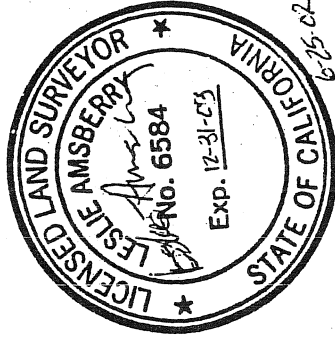


NO SCALE

LEGEND



THE PROPERTY



# EXHIBIT "A"

EXHIBIT MAP OF PROPERTY

PAGE 2

A PORTION OF SUNSET RANCHO ESTATES

UNIT NO. 1, FILED JUNE 11, 1970, IN

BOOK "J" OF MAPS AT PAGE 1, P.C.R.

SITUATED IN SECTIONS 1, 2, AND 3

T. 11 N., R 6 E., M.D.M.,

PLACER COUNTY, CALIFORNIA

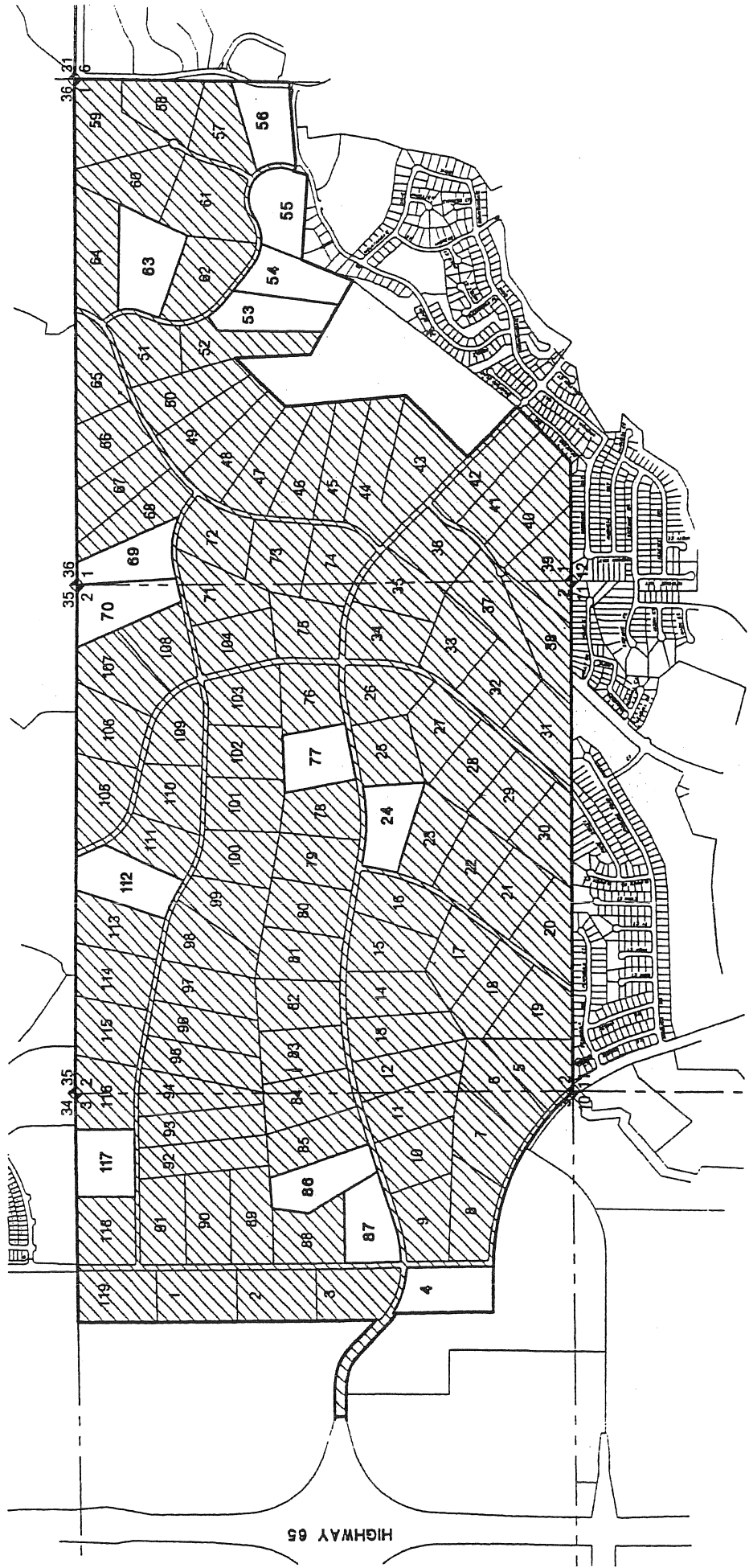


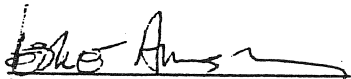
Exhibit "A-1"

Description of "After-Acquired Real Property"

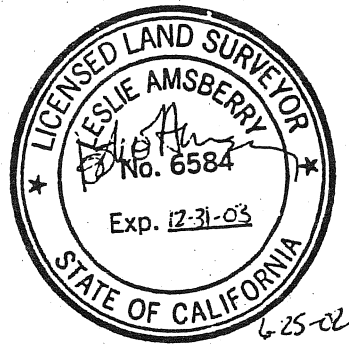
Page 1

Lots 4, 24, 53, 54, 55, 56, 63, 69, 70, 77, 86, 87, 112, and 117 as shown on that map Entitled "Sunset Rancho Estates, Unit No. 1", filed June 11<sup>th</sup>, 1970, in Book "J" of Maps, at Page 1, Placer County Records, situated in Sections 1, 2, and 3, Township 11 North, Range 6 East, M.D.M., County of Placer, California.

Prepared By:  
Terrance E. Lowell and Associates, Inc.

  
Leslie Amsberry, LS 6584  
Exp. 12-31-03

6-25-02  
Date





NO SCALE

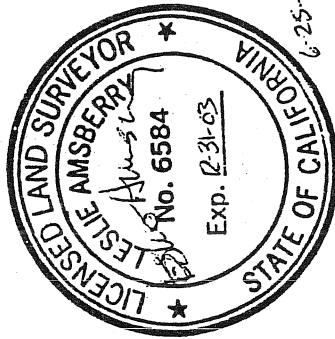
# EXHIBIT "A-1"

EXHIBIT MAP OF AFTER-ACQUIRED REAL PROPERTY

PAGE 2

A PORTION OF SUNSET RANCHO ESTATES  
UNIT NO. 1, FILED JUNE 11, 1970, IN  
BOOK "J" OF MAPS AT PAGE 1, P.C.R.  
SITUATED IN SECTIONS 1, 2, AND 3  
T. 11 N., R 6 E., M.D.M.,

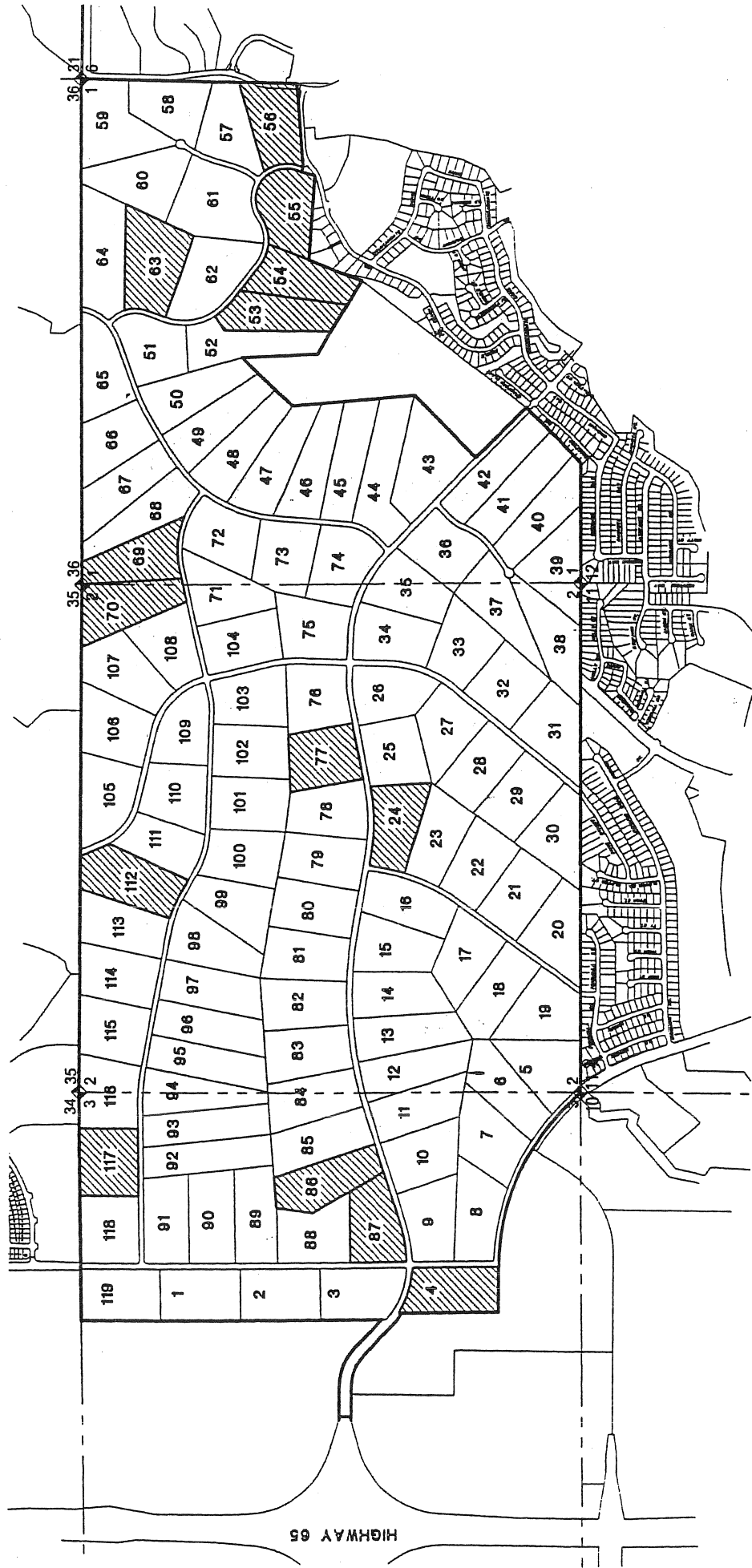
PLACER COUNTY, CALIFORNIA



## LEGEND



AFTER-ACQUIRED  
REAL PROPERTY



## **EXHIBIT B**

### **Project Approvals**

Environmental Impact Report EIR-2000-02

Annexation AN-98-03

General Plan Amendment GPA-99-04

Prezone PZ-99-03

General Development Plan PDG-99-02

Design Guidelines DR-2002-06

Development Agreement (Sunset Ranchos) DA-2002-01

Recording Requested by  
and Return to:

City Clerk  
City of Rocklin  
3970 Rocklin Road  
Rocklin, CA 95677

GRANT OF OPEN SPACE AND  
CONSERVATION EASEMENT WITH COVENANTS  
NWRA OPEN SPACE AND TRAIL SYSTEM

1. \_\_\_\_\_, hereinafter called "Grantor", hereby grants to the City of Rocklin, a municipal corporation, hereinafter called "Grantee", a perpetual open space and conservation easement, in that certain real property situated in the City of Rocklin, County of Placer, State of California, as shown and described in Exhibit I, attached hereto and incorporated by reference herein. This property just described is hereinafter referred to as the "Open Space Property". This open space easement is given pursuant to Chapter 6.6 (commencing with section 51070) of Part 1, Division 1, Title 5 of the California Government Code.

2. Grantor and Grantee recognize that the Open Space Property has significant value and that this value will add to the public's enjoyment of and awareness for the need to preserve these amenities while living in an urbanized area. The purpose of this open space easement is to keep the Open Space Property in a condition that preserves its significant topographic features to as much of an extent as reasonably possible for the enjoyment and benefit of the public. In order that the Open Space Property be so kept, Grantor shall not:

a. Place, erect, construct, or maintain any improvement on the Open Space Property, including but not limited to fencing; except that the Open Space Property may be improved, and shall be maintained, with a trail system which may be comprised of boundary fencing, gates, and an all-weather surface suitable for bicycling and hiking and designed to provide access through portions of the Open Space Property for public use as more fully described in City of Rocklin Resolution No. \_\_\_\_ approving Tentative Subdivision Map SD-\_\_\_\_ which creates the Open Space Property parcel(s), or as described in any amendment to the trail system approved by the City Council. In addition, Grantor may construct additional trails in the Open Space Property for private use subject to approval of the City of Rocklin's Community Development Director.

b. Cut, remove or otherwise disturb trees, shrubs, or other natural growth found on the Open Space Property, except as may be required for installing, repairing and maintaining the trail system described in paragraph a., above; fire suppression and prevention; erosion control; thinning; elimination of diseased growth; or similar preventative measures in a manner compatible with the purposes of this easement. Grantor shall not plant any trees, shrubs, or other vegetation upon the Open Space Property, except as provided for in paragraph 3(c) of this Easement;

c. Enter upon the surface to mine, extract or otherwise remove any archaeological or natural resource found or located in the Open Space Property, or excavate, grade, remove or otherwise disturb any existing sand, soil, rock, gravel or other material found or located in the Open Space Property; except as may be necessary or incidental to the contractor or maintenance of the trail system described in a.) above;

d. Use any portion of the Open Space Property as a dump site, parking lot, storage area or any other use which is inconsistent with the stated purposes, terms, conditions, restrictions and covenants of this easement, or the findings of the City Council of the City of Rocklin relative to the Open Space Property pursuant to Government Code section 51080;

e. Operate or permit the operation on the Open Space Property of any motor driven or powered vehicle, except as may be required for installation, repair, maintenance, and public safety surveillance of the trail system; fire suppression and prevention; thinning; landscaping; elimination of diseased growth or similar preventive measures; and

f. Permit any advertising of any kind to be located on any portion of the Open Space Property.

3. Grantor hereby reserves to itself, its successors in interest and assigns, the right to use the Open Space Property in any manner which is consistent with the purposes and terms of this easement and with existing zoning and other laws, rules and regulations of the State of California and the City of Rocklin. The rights so reserved include, but are not limited to the following:

a. The right to maintain all landscaping and terrain;

b. The right to exclude members of the public from trespassing upon the Open Space Property, except that Grantor shall allow public access to and use of the trail system described in paragraph 2(a) of this Easement, subject to reasonable rules and limitations as agreed to from time to time by Grantor and the City of Rocklin Community Development Director;



c. The right to cover the site with soil and landscaping subject to the prior approval of the City of Rocklin Community Development Director, which approval shall not be unreasonably withheld, who shall require Grantor to utilize grading, fill and planting methods compatible with preserving the Open Space Property in its natural state; and

d. The right to install underground drainage, utility, and similar lines and facilities, subject to prior approval of the City of Rocklin's Community Development Director, who shall require Grantor to conduct the work in a manner which minimizes disturbance to the topographic features of the open space property and to restore and revegetate the open space property to its natural state to the Director's satisfaction.

4. Grantor hereby grants to Grantee, its successors and assigns, the right, but not the obligation, to enter the Open Space Property during the term of this easement for the purpose of removing anything or prohibiting any activity which is contrary to the stated purposes, terms, conditions, restrictions or covenants contained in this easement, or which will or may destroy the unique physical characteristics of the Open Space Property.

5. Grantor hereby waives for itself, its successors in interest and assigns, all reimbursement or compensation for any improvements located within the Open Space Property which may be damaged or destroyed by Grantee, its agents or employees, in carrying out any of the rights granted by this easement. In addition to the rights granted elsewhere herein, such rights include the right, but not the obligation, to make inspections and conduct public safety surveillance of the Open Space Property, and to maintain the Open Space Property for fire and flood prevention, fire fighting, flood abatement and rodent and/or pest extermination.

6. The purpose of this easement is to restrict the uses to which the Grantor may put the Open Space Property, thereby preserving its topographic features, and to allow public use and enjoyment of the Open Space Property in its natural condition.

7. This easement shall not be abandoned, and the terms hereof shall not be amended or rescinded as to any portion of the Open Space Property without the prior written consent of Grantee and full compliance with sections 51093 and 51094 of the Government Code.

8. Each of the terms and provisions contained herein is a covenant intended for the benefit of the public and constitutes an enforceable restriction pursuant to the provisions of section 8 Article XIII of the California Constitution and Chapter 6.6 (commencing with section 51070) of Part 1, Division 1, Title 5 of the Government Code, and shall be binding on the heirs, successors in interest and assigns of the Grantor, and each and all of them, and shall run with the land. Each of the stated purposes, terms,

conditions, restrictions and covenants may be specifically enforced or enjoined by proceedings in the Superior Court of the State of California.

9. In any legal proceeding between the Grantor and Grantee to enforce any of the rights or obligations of the parties hereto or any of the terms contained herein, the prevailing party shall be entitled to recover reasonable attorneys' fees, including those incurred on appeal, if any.

DATED: \_\_\_\_\_

GRANTOR:

\_\_\_\_\_  
(Name of Grantor)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Type Name)

\_\_\_\_\_  
(Type Title)

State of California )  
County of Placer )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me

\_\_\_\_\_  
(Notary Name and Title)

personally appeared \_\_\_\_\_ personally  
known to me (or proved to me on the basis of satisfactory evidence) to be the person(s)  
whose name(s) is/are subscribed to the within instrument and acknowledged to me that  
he/she/they executed the same in his/her/their authorized capacity(ies), and that by  
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of  
which the person(s) acted, executed the instrument.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public in and for said county and state

(SEAL)

State of California )  
County of Placer )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me

\_\_\_\_\_  
(Notary Name and Title)

personally appeared \_\_\_\_\_ personally  
known to me (or proved to me on the basis of satisfactory evidence) to be the  
person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to  
me that he/she/they executed the same in his/her/their authorized capacity(ies), and that  
by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of  
which the person(s) acted, executed the instrument.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public in and for said county and state

(SEAL)

EXHIBIT I  
TO  
GRANT OF OPEN SPACE AND CONSERVATION  
EASEMENT WITH COVENANTS  
WHITNEY OAKS OAK TREE PRESERVE

(Legal description of Open Space Property to be granted with subsequent tentative maps.)

**1<sup>ST</sup> AMENDMENT TO THE  
SUNSET RANCHOS PLANNING AREA  
DEVELOPMENT AGREEMENT**

**ORDINANCE No. 885**

ORDINANCE NO. 885

ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF ROCKLIN APPROVING THE  
FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT  
BY AND BETWEEN THE CITY OF ROCKLIN AND  
SUNSET RANCHOS INVESTORS, LLC,  
RELATIVE TO THE DEVELOPMENT KNOWN AS  
THE SUNSET RANCHOS PLANNING AREA OF  
THE NORTHWEST ROCKLIN ANNEXATION AREA  
( Ordinance No. 859 / DA-2001-01)

The City Council of the City of Rocklin does ordain as follows:

Section 1. The City Council of the City of Rocklin finds and determines that:

A. City and Developer (collectively, "Parties") have previously entered into a Development Agreement (the "Agreement"), approved by the City Council in Ordinance No. 859, and by this reference is incorporated herein. The effective date of the Agreement is August 22, 2002. The Parties have determined that it is reasonable and appropriate to make certain changes to the Agreement in the form of a First Amendment to the Development Agreement (the "Amendment").

B. The Amendment has been analyzed as required by the California Environmental Quality Act (CEQA) and pursuant to Section 15162 of the California Environmental Quality Act (CEQA) Guidelines, as no new effects could occur or no new mitigation measures would be required of the proposed Amendment, the Amendment is within the scope of the North West Rocklin Annexation EIR, approved and certified by City Council Resolution 2002-230 which adequately describes these activities for purposes of CEQA.

C. The Amendment is consistent with and implements the policies of the City of Rocklin's General Plan, including the Housing Element. The Agreement, as amended, will implement an approved project, which has already been determined to be consistent with the General Plan;

D. The Agreement, as amended, is compatible with the land uses and development regulations prescribed by the General Development Plan (PDG 99-02 as amended) for the site;

E. The Agreement, as amended, will not be detrimental to the health, safety, and welfare of persons residing in the immediate area nor be detrimental or injurious to property or persons in the general neighborhood or to the general welfare of residents of the city as a whole;

F. The Agreement, as amended, will not adversely affect the orderly development of property or the preservation of property, on or off the project site;

G. The Agreement, as amended, is consistent with the provisions of Government Code Sections 65864 through 65869.5.

Section 2. The City Council of the City of Rocklin finds and determines that the North West Rocklin Public Facilities Financing and Phasing Plan, prepared for Sunset Ranchos Investors, LLC, prepared by Economic and Planning Systems, Inc. and Terrance E. Lowell and Associates, Inc., dated January 28, 2004, as adopted as part of the Northwest Rocklin Annexation Area General Development Plan, complies with and satisfies Developer's obligation to prepare a financing plan as detailed under the title "Implementation," section D.1. and Developer's obligation to prepare a phasing plan as detailed under the title "Implementation," section D.2.

Section 3. The City Council of the City of Rocklin hereby approves the First Amendment to the Development Agreement by and between the City of Rocklin and Sunset Ranchos Investors, LLC, attached hereto and incorporated by reference herein as Exhibit A.

Section 4. The City Council of the City of Rocklin hereby directs the mayor to sign the Agreement Amendment on behalf of the City of Rocklin and, when fully executed, directs the City Clerk to record the Agreement Amendment in the office of the Placer County Recorder concurrently with the filing of the Liberty Hill Large Lot Subdivision Map SD-2003-02.

Section 5. Within fifteen days of passage of this ordinance, the City Clerk shall cause the full text of the ordinance, with the names of those City Councilmembers voting for and against the ordinance, to be published in the Placer Herald. In lieu of publishing the full text of the ordinance, the City Clerk, if so directed by the City Attorney and within fifteen days, shall cause a summary of the ordinance, prepared by the City Attorney and with the names of the City Councilmembers voting for and against the ordinance, to be published in the Placer Herald, and shall post in the office of the City Clerk a certified copy of the City Councilmembers voting for and against the ordinance. The publication of a summary of the ordinance in lieu of the full text of the ordinance is authorized only where the requirements of Government Code section 36993 (c) (1) are met.

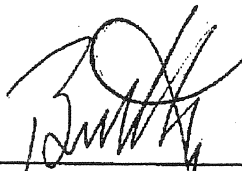
PASSED AND ADOPTED this 13<sup>th</sup> day of April, 2004, by the following roll call vote:

AYES: Councilmembers: Magnuson, Hill, Lund, Storey


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ABSTAIN: Councilmembers: Yorde

  
\_\_\_\_\_  
Brett Storey, Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

First Reading: 3/23/04  
Second Reading: 4/13/04  
Effective Date: 5/13/04

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**FIRST AMENDMENT  
TO THE DEVELOPMENT AGREEMENT  
(ORDINANCE NO. 859)  
BETWEEN THE CITY OF ROCKLIN  
AND SUNSET RANCHOS INVESTORS, LLC,  
A DELAWARE LIMITED LIABILITY COMPANY**

This Amendment to Development Agreement is entered into this 13th day of April, 2004, by and between Sunset Ranchos Investors, LLC, a Delaware limited liability company ("Developer"), and the City of Rocklin, a municipal corporation of the State of California.

**Recitals**

1. City and Developer (collectively, "Parties") have previously entered into a Development Agreement ("Agreement"), approved by the City Council in Ordinance No. 859, and by this reference is incorporated herein. The effective date of the Agreement is August 22, 2002.
2. The Parties have determined that it is reasonable and appropriate to make certain changes to the Agreement in the form of a First Amendment to the Development Agreement ("Amendment").

**Agreement**

Now, therefore the Parties agree to amend the Agreement to incorporate the changes and additions set forth below. Except as amended by this Amendment, the provisions of the Agreement remain in full force and effect. The findings contained in the Agreement are specifically incorporated herein as findings in support of the Amendment. Where those findings refer to the Agreement, it is the intent of the Parties that the reference to the Agreement includes this Amendment. Except as otherwise specified, capitalized terms contained in this Amendment shall have the same meaning as those contained in the Agreement.

Section 1. Since the date of the original Agreement, City has approved a Final Large Lot Subdivision Map for the project. This Final Map changed the legal description of the Property. Also, City and Developer desire to make minor adjustments to the description of the Property. Accordingly, Developer and City hereby agree to amend the legal description of the Property as set forth in Exhibit A to this First Amendment. Said Exhibit A to this First Amendment shall replace the Exhibit A attached to the original Agreement.

Section 2. Recital D is amended to include “PDG 99-02A” to the parenthetical clause beginning on line 5 on page 1 of Exhibit A, so that the parenthetical clause reads: “(PZ-99-03, PDG-99-02, and PDG-99-02A).”

Section 3. Recital H.8. is added as follows:

“Any tentative map prepared for a subdivision relating to this Agreement which meets the definition of a subdivision as defined in Cal. Govt. Code Sec. 66473.7(a)(1) shall comply with all of the applicable provisions of Cal. Govt. Code Sec. 66473.7.”

Section 4. The definition of “General Development Plan” on page 4 of Exhibit A is amended to read as follows: “General Development Plan” shall mean the Northwest Rocklin Area General Plan, as amended.

Section 5. A clarifying reference is added under the title “Definitions” on page 4 of Exhibit A to read as follows: “Parkway A/SR65 Interchange” is also referred to as the Whitney Interchange.

Section 6. Under the title “IMPLEMENTATION,” section C on page 10 is amended to delete the last sentence of the section, and add the following in its place:

“With respect to the SR 65 interchanges and the core components of the vehicular circulation system shown in Figure 8 of Exhibit C of the General Development Plan, if City and Developer fail to secure said rights of way or lands, while City cannot commit to exercise of its eminent domain authority in a particular case for constitutional and other reasons, City does agree that where appropriate, subject to all required procedures that require exercise of discretion by the City Council, City will cooperate to extent allowable by law through the use of its eminent domain authority. In the event that the City does determine that it is appropriate to exercise its eminent domain authority with regard to a particular parcel of property, Developer agrees to enter into a funding agreement to pay to City the estimated cost (including, without limitation, attorney fees for in-house and outside counsel, together with expert witness fees) of conducting all required administrative and judicial procedures, plus the appraised value of the property to be acquired. The agreement shall specify that the funding is required prior to City instituting the proceedings. Where only part of the funding is required prior to instituting the proceedings, the balance shall be secured through security acceptable to the City Manager and City Attorney in his or her discretion.

The Parties further understand and agree that the Financing Plan may, for economic or other reasons, be amended in ways that could involve significant increases in Developer’s financial commitments. City agrees to meet and confer with Developer prior to any such amendment, and to endeavor to reach agreement on the terms and conditions associated therewith. Developer agrees that in the event that agreement, in full or in part, cannot be reached between Developer and City, such amendments are within the absolute discretion of the City Council, and that the vesting provisions of the Agreement are inapplicable to Developer’s covenant to participate in the Financing Plan as it exists at the time for

required performance by Developer of any specific obligation (including but not limited to payment of any fee).”

Section 7. Under the title “IMPLEMENTATION,” section D.1. on page 10 of the Agreement is amended to add the following text, to be inserted into the lead-in paragraph, immediately prior to the last sentence, to read as follows:

“The vesting provisions of this Agreement shall not apply to the Financing Plan. Specifically, Developer shall participate in the Financing Plan as it exists as of the date that Developer is required to perform each specific obligation specified in the Financing Plan (including, without limitation, payment of fees), as made applicable to the development of the Property. By way of example, if building permits are scheduled to be issued for a portion of the Property on January 1, 2005, the development and other fees that Developer must pay as a condition of issuance of those building permits are the adopted fees that are in effect on January 1, 2005. If fee increases are adopted on February 1, 2005, and additional building permits are scheduled to be issued on July 1, 2005, the development and other fees that Developer must pay as a condition of issuance of the additional building permits are the adopted increased fees. Developer shall faithfully and timely comply with each and every provision of the Financing Plan, including but not limited to those provisions requiring establishment of infrastructure and services financing mechanisms. For purposes of this Agreement, “financing mechanisms” shall include but not be limited to assessments, special taxes, development fees, and other specific or general fees, whether city-wide or not, and exactions. Approval of any Subsequent Approval may be made subject to LANDOWNER's participation in and compliance with the Financing Plan. Failure to so participate shall be an event of default to which the default provisions of this Agreement and those specified in City's adopted policies, ordinances, procedures, and requirements relating to approval of development agreements shall apply. For purposes of this Agreement "participate" and "participation" shall mean payment of all monies required by the Financing Plan, and performance of all obligations imposed thereby.”

Section 8. Under the title “IMPLEMENTATION,” subsection “D.1.b)” on page 11 is amended to delete the text of subsection (ii), and substitute the following in its place:

“(ii) A fee analysis to fully cover the cost of full development of the proposed community park (the “NWRAA Community Park Fee”). The fee analysis shall include an analysis of the territory to be subject to the fee, the relationship between the incidence of the fee and the benefit of the improvements to be built in satisfaction of Government Code 66000, et seq., and a plan for adoption and implementation of the fee. The NWRAA Community Park Fee shall not apply to Parcel K. The study shall also address the required changes to the City's Community Park Fee under RMC Chapter 3, Article VI and its relationship, in terms of fee credits, to the NWRAA Community Park Fee. The study shall commence on or before May 20, 2004, and shall be completed within 6 months of the effective date of this Amendment, but in no event later than the recordation of the first small lot subdivision map.

Section 9. Under the title "IMPLEMENTATION," subsection "D.1.c)" on page 12 is amended to delete the text of the subsection, and substitute the following in its place:

"A plan for financing the Sunset Boulevard/SR 65 and Parkway A/SR 65 interchanges, and the north/south road connecting Parkway A to Sunset Boulevard through the Herman Miller site, referred to as Street B in the General Development Plan. As of the date of this Amendment, the Parties anticipate that the Sunset Boulevard interchange will be financed through a combination of Highway 65 JPA fees, CFD bond proceeds and special taxes, and Developer contributions. The Parkway A interchange is not covered by the JPA, but will be financed through a combination of Developer contributions and funding provided by City. In this regard, Developer agrees that it will contribute its share of the cost of the Parkway A interchange as determined in accordance with the provisions of the Financing Plan, to be applied by City to the cost of the Parkway A interchange ("Developer Contribution"). As of the time of execution of this Agreement, the Developer Contribution is estimated to be the sum of \$3,700,000.00. Full actual payment of the Developer Contribution shall constitute full satisfaction of Developer's obligation to contribute funding for the Parkway A interchange. The balance of the Developer Contribution not already satisfied through the City's collection of development fees pursuant to the Financing Plan shall be due and payable as of the date that the Parkway A interchange project construction contract is awarded by Cal-Trans or the agency in charge of construction. The City Manager or designee shall provide written notice to Developer that the Developer Contribution is due and payable. Within thirty (30) days of mailing of the notice, Developer shall pay the Developer Contribution in full. To secure the performance of Developer's obligation to pay the Developer Contribution when it is due and payable, Developer shall, at the time that the design of the Parkway A interchange project is complete, post security in the form of an unconditional standby letter of credit in a form acceptable to the City Manager and City Attorney. The City Manager shall provide written notice to Developer that the security is required to be posted within thirty (30) days from the date that the notice is mailed to Developer.

If Developer desires to post security in some other form, Developer shall, within the said thirty (30) day period, present a written proposal to the City Manager outlining the nature and terms and conditions of the proposed alternate form of security, which may include, without limitation, use of available Mello-Roos bond funds. The City Manager shall, within seven (7) days from receipt of the written proposal, determine in his or her sole discretion whether to accept or reject the alternative security proposal, and shall notify Developer of the determination. In the event that the City Manager has accepted the proposed alternative form of security, Developer shall post the security by the close of business on the 3<sup>rd</sup> business day following notification from the City Manager of acceptability of the alternative form of security. In the event that the City Manager rejects the proposed alternative security, Developer shall immediately post the required standby letter of credit.

Section 10. Under the title "IMPLEMENTATION," subsection "D.1.f)", on page 13, the second sentence of the subsection is amended to read as follows: With respect to arterial roadways, reimbursement from the City shall be limited to the cost of reasonable asphalt paving only (as determined by the City Engineer) those lanes of traffic not needed for the development of the Project Area (that is, which are primarily of City-wide benefit).

Section 11. Under the title "IMPLEMENTATION," subsections D.1.g), h), i), j), k), l), and m) are added, to read as follows:

"g) Waiver of claims relating to nexus issues.

The Financing Plan establishes the need for certain development fees, and calls for the future establishment of other fees and charges, as well as monetary reimbursement requirements and other financing methodologies (collectively, for purposes of this Amendment, "Fees"). Developer understands and agrees that some or all of the Fees are not based upon a nexus analyses or other economic impact studies, either because the Parties have mutually agreed to forego those studies and analyses, or for other legal or practical reasons have determined that they are unduly burdensome or unnecessary. Developer, for itself and all of its heirs, successors, assigns, and Transferees, with full and complete knowledge and understanding of all legal requirements relating to the Fees, and having been fully advised by capable and competent legal counsel, hereby waives any claim of illegality or invalidity, partial or complete, or any other form of defect whatsoever, of or in any Fee included in the Financing Plan, whether adopted by the City Council or not. For purposes of this Amendment, "claim" shall mean and include, but not be limited to, monetary relief or damages, injunctive relief, or other form of legal or equitable remedy. Developer, for itself and all of its heirs, successors, assigns, and Transferees, releases City and its officers, employees, agents and contractors from, and agrees to fully and completely indemnify, defend and hold City and its officers, employees, agents, and contractors harmless from any such claim."

"h) City reimbursement obligations.

Under certain provisions of the Financing Plan City has committed to impose fees upon, and collect reimbursements from, later-developing property owners whose properties have received economic benefit from infrastructure improvements constructed by Developer or its Transferees. The Parties agree that City's responsibility in that regard is to use its best reasonable efforts to satisfy those commitments. In the event of a City clerical or other error or other failure of performance by City, or any other circumstance that interferes with City's ability to perform, the sole sources of funding for satisfaction of the City's commitments are the various applicable special funds and sources (including, without limitation, development fee funds) specified in the Financing Plan. Under no circumstances shall the City's General Fund be liable as a source of funding for satisfaction of the City's commitments. If the City's failure to perform in this regard is caused by the intentional or willful misconduct of a City employee, then to the extent permitted by law, City agrees that it will assign to Developer any and all of City's right,

title and interest to recover from such employee any shortfalls in the Financing Plan which arose from such employee's intentional or willful misconduct.:

“i) Sources of reimbursement.

Where Developer’s actual eligible construction costs of a facility are funded through fee credits or cash reimbursements, whether from a fee program or otherwise, no reimbursement shall be made from other public funding mechanism(s) (including Mello-Roos bond funds) that may provide funding for the same facility. Where Developer utilizes funds from a Mello-Roos Community Facilities District to finance development fees that the Landowner must pay to a development fee program, Developer shall not receive fee credits or cash reimbursement from the fee program for the fees financed in that manner. In that case, Developer shall be deemed to have paid the required fees to the extent that payment is made from bond funds, and City shall provide Developer with written evidence or certification that the required fees have been paid to the extent that bond funds have been used for prepayment. Where Developer has been reimbursed for eligible construction costs of a facility from bond funds, Developer shall not be entitled to fee credits against fees that are otherwise required by the Financing Plan for purposes of funding those costs.”

“j) Term of reimbursement and related agreements.

Under the provisions of the Agreement and the Financing Plan, the Parties are required to execute reimbursement and related agreements. Where the term of those agreements extends beyond the term of the Agreement, the Parties agree that the reimbursement and related agreements shall survive the termination of the Agreement, and that the term of those agreements shall apply.”

“k) Funding shortfalls.

The Parties understand and agree that as development proceeds, infrastructure funding shortfalls may interfere with the appropriate progression of construction of infrastructure required to serve development projects, including but not limited to the Whitney Interchange. In the event of a funding shortfall: (i) there shall be no City General Fund obligation to provide funding to eliminate the shortfall in whole or in part, it being established City policy that development must pay its own way; (ii) the City Manager, subject to the “special circumstances” provisions of this Memorandum, shall have the absolute discretion to order that development stop until a plan has been agreed upon for elimination of the shortfall, which plan is reliable, feasible, and includes provisions for adequate security, all in the City Manager’s discretion; and (iii) the City Manager may require, in his or her discretion, a shortfall funding agreement that, *inter alia*, specifies security for funding commitments satisfactory to the City Manager and the

City Attorney in their sole discretion. In the event that the shortfall occurs due to an actual or predicted decline in residential densities for the Property, Developer agrees that it will fund the resulting shortfall through a mechanism such as reallocating the infrastructure costs over the remaining undeveloped units so that when build-out occurs the entire infrastructure cost is in fact paid for by the units actually built, or in some other equitable manner.”

“l) Drainage improvements.

Where drainage improvements (including, but not limited to, detention and retention basins) are required for development of a parcel, funding for those improvements shall be assured as a condition of granting any Subsequent Approvals, through a drainage agreement or other form of agreement. Any such agreement shall include provisions for security, in a form and in an amount acceptable to the City Manager.”

“m) Accelerated reimbursement.

The parties agree and understand that the Financing Plan contains provisions for accelerated reimbursement to Developer from the non-residential lands within the Financing Plan Area. The City Manager shall, subject to the special circumstances provisions of this Agreement, have the authority to determine in his or her sole and absolute discretion, whether the accelerated reimbursement requirements of the Financing Plan constitute an undue burden on the land that is required to provide advanced reimbursement, and whether and to what extent those acceleration requirements shall be modified. Prior to making his or her decision, the City Manager shall provide reasonable notice to Developer, and shall provide Developer an opportunity to meet and confer with the City Manager within a reasonable time. In the event that Developer exercises its rights under the special circumstances provisions of this Agreement, Developer shall have the right to address the City Council in order to express its position on the issue of the propriety of modification of the accelerated reimbursement provisions.”

Section 12. Under the title “IMPLEMENTATION,” subsection “D.3” is amended to read as follows:

Prior to City Council approval of the first final small lot subdivision map on the Property, the Developer shall prepare and obtain City approval of, Park Master Plans detailing the facilities and improvements to be constructed in each of the Neighborhood Parks, in the Community Park, and Open Space and Trail System.

Section 13. The first sentence of subsection F.2. on page 15 of Exhibit A is amended to read as follows: “Developer shall grant to City an Open Space and Conservation Easement over those areas shown in the NWRA General Development Plan as Development Areas 19, 34, and 15 (the Open Space and Trail System).

Section 14. Under the title "IMPLEMENTATION," subsection "G" on page 16 is amended to read as follows:

City agrees to levy the maximum tax for park construction and maintenance in the CFD, beginning with the recording of the first final small lot subdivision map, and make available for acquisition of Phase I proceeds not then needed for park maintenance as determined by the City.

Section 15. Under the title "IMPLEMENTATION," subsection "H" on page 17 is amended to read as follows:

Developer shall pay to City a City-wide recreational facility contribution in the amount of two million dollars (\$2,000,000). Notwithstanding any other provision of this Agreement, the parties agree that this obligation is fixed and not subject to change unless the parties by mutual agreement agree to alter the amount. Payment shall be no later than June 15, 2006. Developer's obligation as specified in this section 13 shall survive this Agreement. City shall deposit the contribution in a separate fund for the construction and/or acquisition of recreational facility(ies) of City's choice.

Section 16. Under the title "IMPLEMENTATION," subsection "I" on page 17, the third sentence is amended to read as follows:

To satisfy this requirement, each parcel map and each multifamily Subsequent Approval shall be conditioned to provide 10 percent of the proposed units as Affordable Units or demonstrate where the Affordable Units will or have been provided elsewhere in the Sunset Ranchos Planning Area to meet the respective allocation by entering into an Affordable Housing Implementation Agreement with City prior to recordation of the any small lot tentative subdivision map or issuance of any multifamily/higher density project building permit.

Section 17. Under the title "IMPLEMENTATION," subsection "J" on page 18 is amended to read as follows:

Developer shall complete improved access to the high school site suitable for construction vehicle use no later than May 31, 2003. Public Access necessary to allow pedestrians and autos access to the high school shall be completed, and those improvements accepted by the City, no later than August 1, 2005. For the purpose of this agreement "Public Access" will mean preparation of improvement plans to the satisfaction of the City Engineer, installation of the following base improvements to Sioux Street and Watson Street by SRI and acceptance of those improvements as complete by the City of Rocklin, no later than August 1, 2005. Upon acceptance, the City will open the street for public use.

1. Installation of all underground improvements and or sleeves necessary to accommodate necessary underground improvements (wet and dry utilities) within the right of way of Sioux Street between the current terminus of



Sioux Street and the City Limits of Lincoln, and that portion of Watson Street adjacent to the High School.

2. Installation of curb, gutter, sidewalk and all pavement within the proposed Sioux Street right of way between the current terminus of Sioux Street and the City Limits of Lincoln.
3. Installation of curb, gutter, sidewalk and all pavement within the proposed Watson Street right of way located adjacent to the entire northern boundary of the High School.
4. Installation of traffic signals at the two entrances to the Liberty High School from Sioux Street between Parkway A and Watson Road.
5. Installation of the traffic signal loops at the intersections of Sioux Street and Parkway A and Sioux Street and Watson Road.
6. Installation of traffic signage at the following intersections with Sioux Street; Watson Road, Parkway A and Purnam Road.
7. Installation of all street striping and traffic signage along Sioux Street and that portion of Watson Street adjacent to the High School.
8. Installation of street lights along Sioux Street and that portion of Watson Street adjacent to the High School.

Public Access for purposes of access to the High School does not include the final improvements to Sioux Street which would not be immediately necessary including the landscaping, sound walls and other miscellaneous items that could be completed after the street was accepted as complete and would not create an unsafe operating condition or substantial deviation from City of Rocklin standards and specifications.

Section 18. Under the title "IMPLEMENTATION," subsection "K" on page 19, is amended to read as follows:

Developer shall make to City a lump sum contribution for the construction and acquisition of apparatus for Rocklin Fire Station No. 4 located on Park Drive in City in the amount of \$800,000.00. Notwithstanding any other provision of this Agreement, the parties agree that this obligation is fixed and not subject to change unless the parties by mutual agreement agree to alter the amount. Developer shall make the contribution to City no later than August 1, 2007.

Section 19. Under the title "IMPLEMENTATION," subsection "N." is added, to read as follows:

The parties understand and agree that development of the Property could occur as discrete phases, or as partial development within each planned phase; that development of a project consisting of a particular parcel, subdivision or subdivisions, or portion thereof, can proceed only if all infrastructure required to serve the development project has in fact been built or is assured to the satisfaction of the City Manager in his or her sole discretion; and that uncoordinated and uncontrolled development is detrimental to the public health, safety, and welfare, as well as to the Financing Plan, and is inconsistent with the General Development Plan. For those reasons, notwithstanding any other provision of the Agreement (including, without limitation, the vesting provisions), the City Manager, acting on behalf of City, shall, after meeting and conferring with Developer, have the absolute discretion to determine whether a particular project is timed in a logical manner for the particular applicable development phase under the policies expressed in this section. Accordingly, the City Manager shall have the authority to approve, conditionally approve, or deny approval of the timing for development of the project. The City Manager's decision shall be subject to the "Special Circumstances" provisions of this Amendment. The parties further agree and understand that the General Development Plan Amendments will include a provision that conforms to the provisions of this section."

Section 20. Under the title "IMPLEMENTATION," subsection "O." is added, to read as follows:

SRI agrees to construct roadway base repairs as needed and a 2" asphalt overlay with fabric on that portion of Sunset Blvd. located between the right of way of State Route 65 and West Oaks Blvd., as directed by and to the satisfaction of the City's Director of Public Works. However, SRI's responsibility for the total cost of the repairs and overlay shall not exceed Three Hundred Thousand and 00/100 Dollars. (\$300,000.00)

Section 21. Under the title "MISCELLANEOUS," subsection L. is added, to read as follows:

**"L. Special Circumstances**

Whenever the term "special circumstances" is used in this Amendment, the procedure set forth in this section shall apply. In the event that Developer or its Transferee does not concur with the decision of the City Manager, which shall be deemed to be a final decision, the Developer or Transferee shall notify the City Manager of its disagreement with the City Manager's decision. The City Manager shall meet and confer with the Developer or Transferee in an effort to resolve the matter. If the matter is not resolved, Developer or a Transferee shall have the right to appeal to the City Council, and to address the City Council to express its position. The procedures, including time limits, for filing the appeal shall be those applicable for appeals of Planning Commission decisions to the City Council. The appeal shall be heard by the City Council in accordance with those procedures, except that the appeal shall not be heard as a public hearing. The decision in the appeal shall be deemed to have been made by the City Council acting in its quasi-legislative capacity, and not in its quasi-judicial capacity. The

parties agree that the decision of the City Council shall be final and binding and that findings are not required. Developer waives all rights to commence judicial proceedings to set aside or otherwise invalidate the City Council's decision, together with any claim for monetary or equitable relief."

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto on the day and year first above written.

**CITY:**

CITY OF ROCKLIN,  
A Municipal Corporation

By: \_\_\_\_\_

Bret Storey,  
Mayor

**DEVELOPER:**

Sunset Ranchos Investors, LLC  
a Delaware limited liability company

By: \_\_\_\_\_

Name: Peter M. Bridges  
Its: Authorized Representative

By: \_\_\_\_\_

Name: LADONNA K. MONSEES  
Its: Authorized Representative

**ATTEST:**

\_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Russell A. Hildebrand  
City Attorney

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

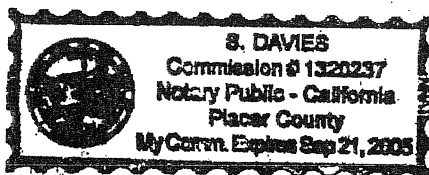
County of Placer } ss.

On 5 May 2004, before me, S. DAVIES, NOTARY PUBLIC,  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared BRETT STOREY  
Name(s) of Signer(s)

☒ personally known to me  
☐ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal Above

WITNESS my hand and official seal.

[Signature]

Signature of Notary Public

## OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

### Description of Attached Document

Title or Type of Document: Ord. 885

Document Date: 4-13-04 Number of Pages:       

Signer(s) Other Than Named Above:       

### Capacity(ies) Claimed by Signer

Signer's Name:       

- ☐ Individual
- ☐ Corporate Officer — Title(s):
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other:

Signer Is Representing:       

RIGHT THUMBPRINT  
OF SIGNER

Top of thumb here

State of California )  
County of Placer )

On this 12th day of May, 2004, before me  
Gale L. Wild, Notary Public

(Notary Name and Title)

personally appeared PETER M. BRIDGES

PETER M. BRIDGES personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

My Commission Expires: 2/23/05

Gale L. Wild  
Signature of Notary Public

(SEAL)



State of California )  
County of San Diego

On this 14 day of May, 2004, before me  
M.A. Miller

(Notary Name and Title)

personally appeared LADONNA K. MONSEES

LADONNA K. MONSEES personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

My Commission Expires: \_\_\_\_\_

M.A. Miller  
Signature of Notary Public

(SEAL)

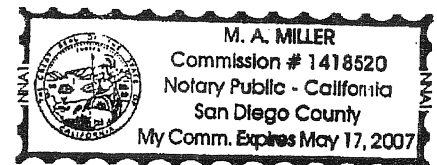


Exhibit "A"

Description of Property

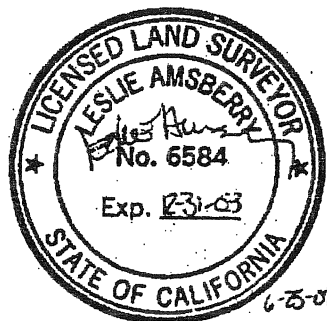
Page 1

Lots 1 through 119, inclusive as shown on that map Entitled "Sunset Rancho Estates, Unit No. 1", filed June 11<sup>th</sup>, 1970, in Book "J" of Maps, at Page 1, Placer County Records, situated in Sections 1, 2, and 3, Township 11 North, Range 6 East, M.D.M., County of Placer, California.

EXCEPTING THEREFROM, Lots 4, 24, 53, 54, 55, 56, 63, 69, 70, 77, 86, 87, 112, and 117.

Prepared By:  
Terrance E. Lowell and Associates, Inc.

Leslie Amsberry 6-26-02  
Leslie Amsberry, LS 6584 Date  
Exp. 12-31-03



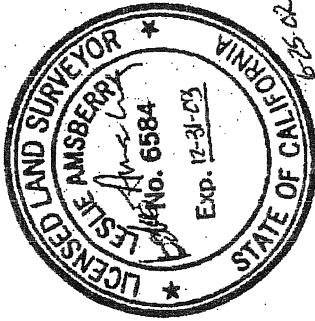
# EXHIBIT "A"

EXHIBIT MAP OF PROPERTY

PAGE 2

A PORTION OF SUNSET RANCHO ESTATES  
UNIT NO. 1, FILED JUNE 11, 1970, IN  
BOOK "J" OF MAPS AT PAGE 1, P.C.R.  
SITUATED IN SECTIONS 1, 2, AND 3  
T. 11 N., R. 6 E., M.D.M.,

PLACER COUNTY, CALIFORNIA



LEGEND

THE PROPERTY



NO SCALE

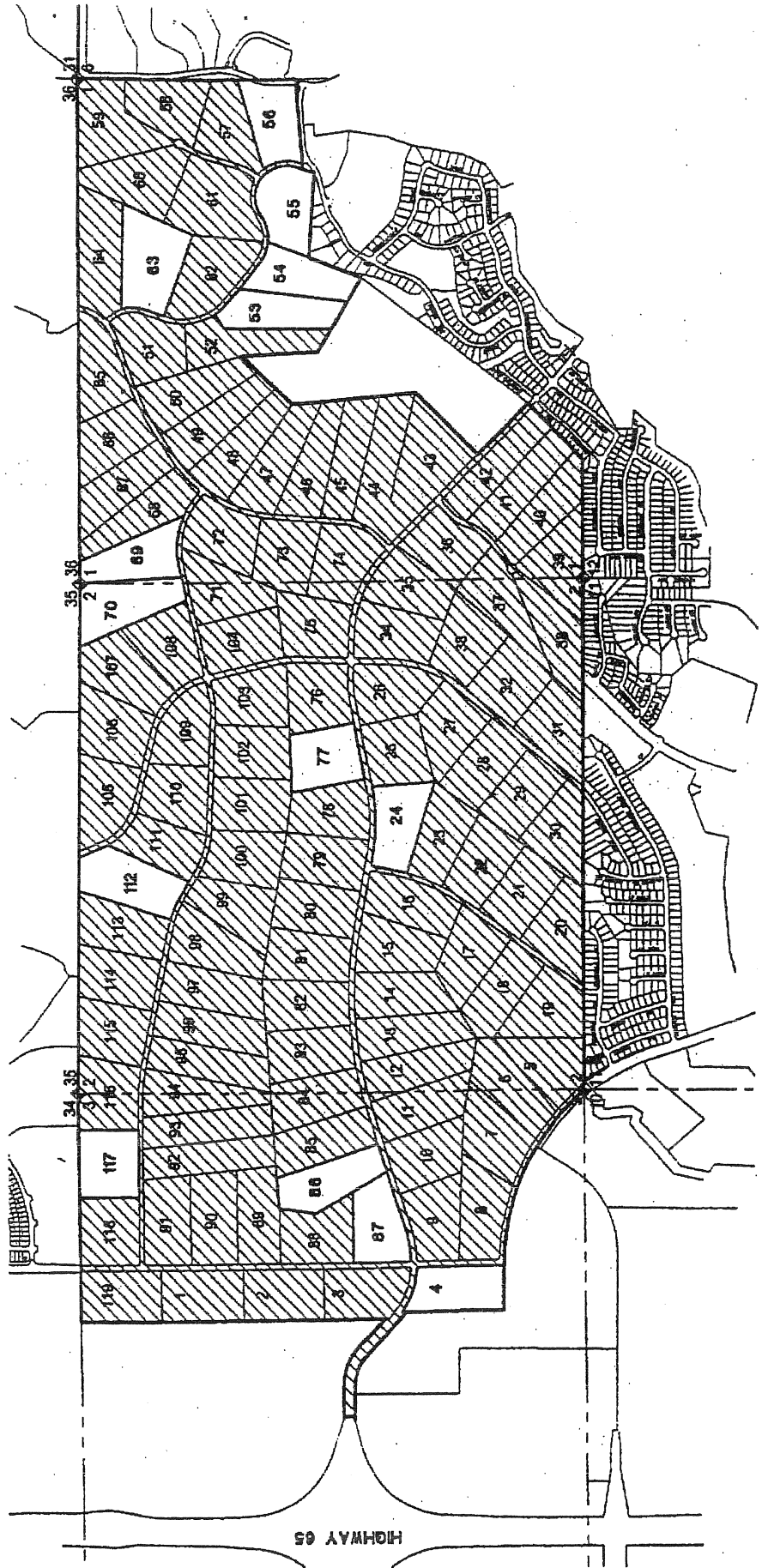



Exhibit "A-1"

Description of "After-Acquired Real Property"

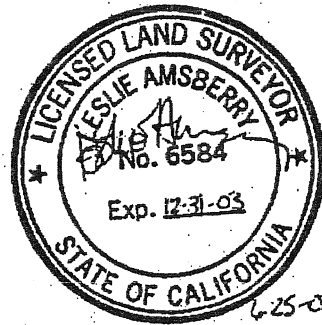
Page 1

Lots 4, 24, 53, 54, 55, 56, 63, 69, 70, 77, 86, 87, 112, and 117 as shown on that map Entitled "Sunset Rancho Estates, Unit No. 1", filed June 11<sup>th</sup>, 1970, in Book "J" of Maps, at Page 1, Placer County Records, situated in Sections 1, 2, and 3, Township 11 North, Range 6 East, M.D.M., County of Placer, California.

Prepared By:  
Terrance E. Lowell and Associates, Inc.

  
Leslie Amsberry, LS 6584  
Exp. 12-31-03

6-25-02  
Date



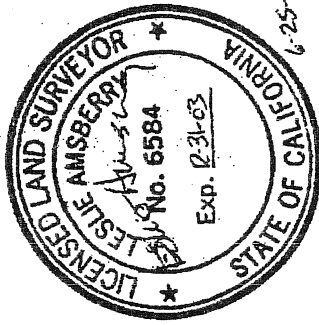


# EXHIBIT "A-1"

EXHIBIT MAP OF AFTER-ACQUIRED REAL PROPERTY  
PAGE 2

A PORTION OF SUNSET RANCHO ESTATES  
UNIT NO. 1, FILED JUNE 11, 1970, IN  
BOOK "J" OF MAPS AT PAGE 1, P.C.R.  
SITUATED IN SECTIONS 1, 2, AND 3  
T. 11 N., R 6 E., M.D.M.,

PLACER COUNTY, CALIFORNIA



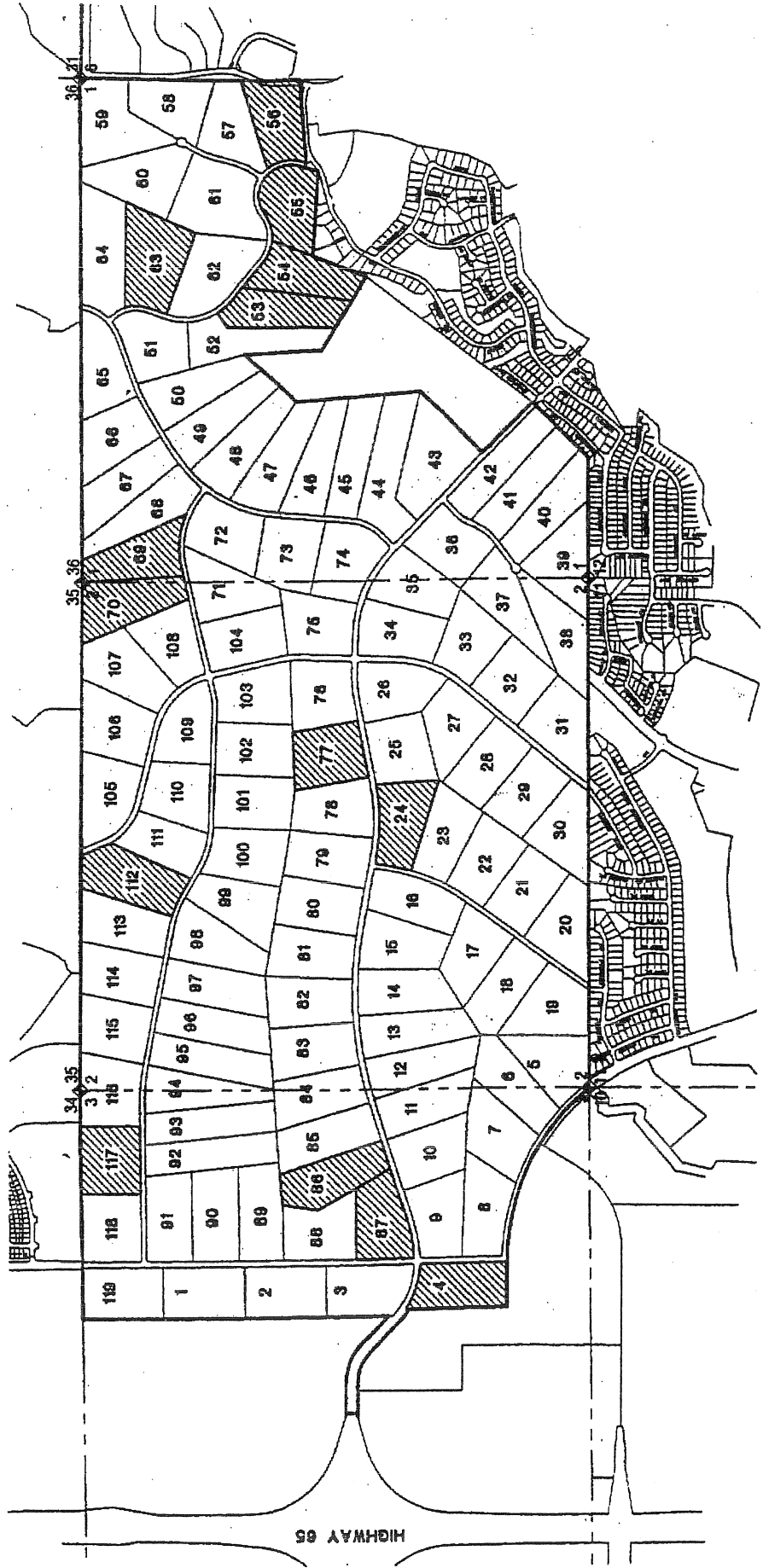
## LEGEND



AFTER-ACQUIRED  
REAL PROPERTY



NO SCALE



**4<sup>TH</sup> AMENDMENT TO THE  
NORTH WEST ROCKLIN  
GENERAL DEVELOPMENT PLAN**

**ORDINANCE No. 898**

ORDINANCE NO. 898

ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF ROCKLIN APPROVING THE FOURTH AMENDMENT TO THE GENERAL  
DEVELOPMENT PLAN FOR NORTH WEST ROCKLIN ANNEXATION AREA,  
FIRST APPROVED BY ORDINANCE NO. 858  
(North West Rocklin General Development Plan Amendment PDG-99-02C)

The City Council of the City of Rocklin does ordain as follows:

Section 1. The City Council of the City of Rocklin finds and determines that:

A. The General Development Plan for the North West Rocklin Annexation Area approved by Ordinance number 858 by the City Council of the City of Rocklin on July 23, 2002 (the “**General Development Plan**”) and amended by General Development Plan Amendments PDG-2003-06 as approved by Ordinance number 882 on January 27, 2004, PDG-99-02A as approved by Ordinance number 884 on April 13, 2004, and PDG-99-02B approved by Ordinance number 892 on October 12, 2004 is comprised of the following components:

1. The North West Rocklin General Development Plan Zoning Map, adopted as Exhibit A to Ordinance 858 and incorporated into and reflected on the Official Zoning Map of the City of Rocklin.
2. The Conditions of Approval, adopted as Exhibit B to Ordinance 858 as amended (the “Conditions of Approval”); and,
3. The General Development Plan Zoning and Development Standards, adopted as Exhibit C to Ordinance 858 as amended (the “Zoning and Development Standards”);
4. The North West Rocklin Public Facilities Financing and Phasing Plan, prepared for Sunset Ranchos Investors, LLC, prepared by Economic and Planning Systems, Inc. and Terrance E. Lowell and Associates, Inc., dated January 28, 2004 - (the “Financing and Phasing Plan”) was adopted in its entirety and incorporated by reference as Chapter 4 of the General Development Plan as a component of General Development Plan Amendment PDG-99-02A.

B. General Development Plan Amendment PDG-99-02C amends the General Development Plan by updating and reestablishing 1) the Whitney Ranch Community Park Fee to reflect current construction cost estimates, and 2) the Whitney Interchange Fee to reflect increases in inflation and construction costs.

C. General Development Plan Amendment PDG-99-02C has been analyzed as required by the California Environmental Quality Act (CEQA) and pursuant to Section 15162 of the California Environmental Quality Act (CEQA) Guidelines, as no new effects could occur or no new mitigation measures would be required of the proposed amendment, General Development Plan Amendment PDG-99-02C is within the scope of the North West Rocklin Annexation EIR, approved and certified by City Council Resolution 2002-230, which adequately describes these activities for purposes of CEQA.

D. The proposed General Development Plan Amendment PDG-99-02C is consistent with the City of Rocklin's General Plan land use element and the current and proposed land use designations applicable to the site.

E. The proposed General Development Plan Amendment PDG-99-02C is consistent with and implements the policies of the City of Rocklin's General Plan, including the Housing Element.

F. The area within the boundaries of General Development Plan Amendment PDG-99-02C is physically suited to the uses authorized by the general development plan amendment.

G. The General Development Plan Amendment PDG-99-02C is compatible with the land use/uses existing and permitted on the properties in the vicinity.

H. The land uses, and their density and intensity, allowed by the proposed General Development Plan Amendment PDG-99-02C are not likely to create serious health problems or create nuisances on properties in the vicinity.

I. The City Council has considered the effect of the proposed General Development Plan Amendment PDG-99-02C on the housing needs of the region and has balanced those needs against the public service needs of its residents and available fiscal and environmental resources.

Section 2. The City Council of the City of Rocklin hereby approves General Development Plan Amendment PDG-99-02C to update and reestablish the fees for the Northwest Rocklin Community Park Fee as shown in Exhibit A attached hereto and incorporated herein by this reference.

Section 3. The City Council of the City of Rocklin hereby approves General Development Plan Amendment PDG-99-02C to update and reestablish the fees for the Whitney Interchange Fee as shown in Exhibit B attached hereto and incorporated herein by this reference.

Section 4. Having authorized and established development impact fees for the Whitney Ranch Community Park and the Whitney Interchange, all future amendments, updates, revisions, and/or inflationary adjustments of the fee amounts shall be done by action on a resolution by the City Council of the City of Rocklin.

Section 5. Within 15 days of the passage of this ordinance, the City Clerk shall cause the full text of the ordinance, with the names of those City Council members voting for and against the ordinance, to be published in the Placer Herald. In lieu of publishing the full text of the ordinance, the City Clerk, if so directed by the City Attorney and within 15 days, shall cause a summary of the ordinance, prepared by the City Attorney and with the names of the City Council members voting for and against the ordinance, to be published in the Placer Herald, and shall post in the office of the City Clerk a certified copy of the full text of the ordinance, along with the names of those City Council members voting for and against the ordinance. The publication of a summary of the ordinance in lieu of the full text of the ordinance is authorized only where the requirements of Government Code section 36933(c)(1) are met.

PASSED AND ADOPTED this 12th day of July, 2005, by the following roll call vote:

AYES: Councilmembers: Storey, Yorde, Lund, Hill

NOES: Councilmembers: None

ABSENT: Councilmembers: Magnuson

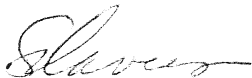
ABSTAIN: Councilmembers: None



---

Peter Hill, Mayor

ATTEST:



---

City Clerk

First Reading: 6/28/05

Second Reading: 7/12/05

Effective Date: 8/12/05

E:\clerk\ord\Whitney Ranch GDP Amendment PDG-99- 02C.doc

EXHIBIT A TO PDG-99-02C

AMENDMENT TO  
THE NORTH WEST ROCKLIN GENERAL DEVELOPMENT PLAN  
UPDATING AND REESTABLISHING  
THE NORTHWEST ROCKLIN COMMUNITY PARK FEE

WHITNEY RANCH COMMUNITY PARK FEE			
ZONING	COMMUNITY PARK	PLUS 4%	TOTAL WHITNEY RANCH
AREA	COST	ADMIN FEE	COMMUNITY PARK FEE
<b>Whitney Ranch</b>			
Single Family	\$2,567	\$103	\$2,670
PD-20	\$1,483	\$59	\$1,542
PD-BP	\$8,095	\$324	\$8,419
PD-C	\$4,722	\$189	\$4,911
<b>Hwy 65 Corridor</b>			
BP	\$8,095	\$324	\$8,419
C	\$4,722	\$189	\$4,911
BP/C	\$4,722	\$189	\$4,911

### Whitney Ranch Community Park Fee Calculations

Community Park Users									
Residents		Single Fam.	PD-20	PD-BP	PD-C	BP	C	BP/C	TOTAL
Residents per Unit		2.96	1.71						
GDP Units		2998	1162						4160
Total Residents		8874	1987						10861
Employees									
Sq.Ft.per Employee				350	500	350	500	500	
Planned Acres				9.2	34.9	22.9	62.7	134.3	264
Floor Area Ratio				0.3	0.25	0.3	0.25	0.25	
Bldg. Square Feet				120,226	380,061	299,257	682,803	1,462,527	2,944,874
Total Employees				344	760	855	1366	2925	6249
Total Park Users		8874	1987	344	760	855	1366	2925	17110
DUE Factor		1	1	0.25	0.25	0.25	0.25	0.25	
Total DUE's		8874.08	1987	86	190	214	341	731	12423
Percent of Total		71.4%	16.0%	0.7%	1.5%	1.7%	2.7%	5.9%	100.0%
Community Park Cost Allocation									
% Share of Facilities		71.4%	16.0%	0.7%	1.5%	1.7%	2.7%	5.9%	100.0%
Allocated Cost of Facilities		\$6,587,934	\$1,475,123	\$63,752	\$141,075	\$158,687	\$253,449	\$542,875	\$9,222,895
Planned Units or Acres		2500	978	9.2	34.9	22.9	62.7	134.3	
Fee Per Unit or Acre		\$2,635	\$1,508	\$6,930	\$4,042	\$6,930	\$4,042	\$4,042	

Table 2

Community Park Cost Estimates (2005 \$)

Item	Community Parks
<b>Phase 1</b>	
Acres	19.70
Cost Per Acre	\$189,123
<b>Total Cost</b>	<b>\$3,725,727</b>
<b>Phase 2</b>	
Acres	20.00
Cost Per Acre	\$257,122
<b>Total Cost</b>	<b>\$5,142,442</b>
<b>Subtotal Cost</b>	<b>\$8,868,169</b>
4% Admin Fee	\$354,727
<b>TOTAL COST</b>	<b>\$9,222,895</b>



## EXHIBIT B TO PDG-99-02C

### AMENDMENT TO THE NORTH WEST ROCKLIN GENERAL DEVELOPMENT PLAN UPDATING AND REESTABLISHING THE NORTHWEST ROCKLIN WHITNEY INTERCHANGE FEE

#### Whitney Interchange Fee

#### Calculation of the Annual Escalation Factor – 2005

Date	Index Value	
	20-City CCI	San Francisco CCI
<b>Current Year Inflation Adjustment</b>		
October 2003	6,771	7,804
October 2004	7,314	8,195
Percent Change	8.02%	5.00%
<i>Average of Percent Changes</i>		6.51%
<b>2005 Inflation Trigger</b>		<b>6.51%</b>

### Whitney Interchange Total Cost

Cost Items	Percent	2003 Estimated Cost	Inflation Adjustment	2004 Estimated Cost
Applicable Year [1]		2004	6.5%	2005
<b>WHITNEY INTERCHANGE COST ESTIMATE</b>				
Whitney Interchange		\$ 12,000,000	\$ 780,000	12,780,000
Less Contribution from Citywide Traffic Impact Fee Program		(\$ 800,000)	(\$ 52,000)	(852,000)
Whitney Signalization		\$ 500,000	\$ 32,500	532,500
Administrative Costs	4%	\$ 468,000	\$ 30,420	498,420
<b>NET COST TO NWRAA</b>		<b>\$ 12,168,000</b>	<b>\$ 790,920</b>	<b>12,958,920</b>

[1] The inflation adjustment is based on the percent change of the Engineering News Record's San Francisco Construction Cost Index from October 2003 to October 2004, as directed by the Northwest Rocklin Annexation Area Public Facilities Financing and Phasing Plan. The inflated fee will be applicable for the 2005 calendar year.

**Whitney Interchange Cost Allocation By Owner**

<b>OWNER</b>	<b>PERCENT</b>	<b>AMOUNT</b>
<b>Whitney Ranch</b>		
Sunset Ranchos Investors	16%	\$2,073,427
SWP	14%	\$1,814,249
Subtotal	30%	\$3,887,676
<b>Hwy 65 Corridor</b>		
JBC	34%	\$4,406,033
Placer Ranch	22%	\$2,850,962
WJU	14%	\$1,814,249
Subtotal	70%	\$9,071,244
<b>TOTAL</b>	100%	\$12,958,920

# Whitney Interchange Cost Allocation By Land Use

All Amounts in 2005 \$

Owner	DUEs per unit or acre	Estimated Yield		Total DUEs	Total		Cost Per Unit or Acre
		Units	Acres		Cost [2]	Percentage	
Whitney Ranch							
Sunset Ranchos Investors							
Sngl.Fam.	1.00	2,500		2,500	\$1,556,308	75%	\$623 per unit
PD-20	0.72	978		704	\$438,356	21%	\$448 per unit
PD-C	38.34		3.30	127	\$78,763	4%	\$23,868 per acre
Subtotal		3,478	3.30	3,331	\$2,073,427	100%	
SWP							
PD-BP	33.80		9.20	311	\$370,547	20%	\$40,277 per acre
PD-C	38.34		31.60	1,212	\$1,443,702	80%	\$45,687 per acre
Subtotal			40.80	1,523	\$1,814,249	100%	\$44,467 per acre
Sunset Ranchos Total		3,478	44.10	4,853	\$3,887,676	30% of Total Cost	
Highway 65 Corridor							
JBC							
C	38.34		24.30	932	\$1,181,751	27%	\$48,632 per acre
BP/C	38.34		66.30	2,542	\$3,224,282	73%	\$48,632 per acre
Subtotal			90.60	3,474	\$4,406,033	100%	\$48,632 per acre
Placer Ranch							
BP	33.80		22.90	774	\$454,672	16%	\$19,855 per acre
C	38.34		38.40	1,472	\$864,827	30%	\$22,522 per acre
BP/C	38.34		68.00	2,607	\$1,531,464	54%	\$22,522 per acre
Subtotal			129.30	4,853	\$2,850,962	100%	\$22,049 per acre
WJU							
BP/C	38.34 per acre		30.10	1,154	\$1,054,667	58%	\$35,039 per acre
LI	11.37 per acre		73.10	831	\$759,582	42%	\$10,391 per acre
Subtotal			103.20	1,985	\$1,814,249	100%	\$17,580 per acre
Highway 65 Corridor Total		0	323.10	10,312	\$9,071,244	70% of Total Cost	
TOTAL		3,478	367.20		\$12,958,920		

cost alloc  
whitney

Note: 2003 dollars have been inflated to 2004 \$ for use in the 2005 calendar year.

DUE distribution within an ownership group with DUEs based on average daily trips.